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**DECISION MAKING IN THE JUVENILE JUSTICE SYSTEM:
A COMPARATIVE STUDY OF FOUR STATES**

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EXECUTIVE SUMMARY

The juvenile justice system in the United States, implemented at the turn of the 20th Century as a legal and social institution for children, has undergone significant changes over the last quarter century. The contemporary juvenile justice system exists as a complex set of interdependent organizations centered around the juvenile court, which has promoted rehabilitation in decisions regarding juvenile offenders. Juvenile code changes exemplify the shift in the contemporary juvenile justice system, as most states have repeatedly revised their codes since the 1980s to focus on holding juveniles accountable for their behavior.

This study examines how courts and state service agencies organize and structure the decisions that process juveniles in the juvenile justice systems in four states: Michigan, Ohio, Illinois, and Indiana. We compare the processing decisions and the perceptions of court personnel in 12 juvenile courts in the four states. In our research, we examine whether decisions about case processing can be made more rational and fair through the development and application of structured decision making related to accountability-based sanctions. The research addresses the following questions:

1. What are the changes in juvenile codes in the four states that have had impact upon local and state justice system decision making?
2. Do juvenile courts and state agencies insure that youth are appropriately classified and sanctioned according to the risks that they pose?
3. What are the patterns of processing into and through the juvenile justice system?
4. How much and what types of discretion exist for the various juvenile justice officials in assigning sanctions?
5. What protections exist to insure that sanctions are administered fairly?
6. How much consistency is there across states, juvenile courts and state service agencies?
7. What are the views of local juvenile justice decision makers about criteria to be employed in the processing of juveniles?
8. What are the similarities and differences in orientations of decision makers towards the processing of juveniles with reference to formal systems for assuring accountability in sentencing and placement decisions?

THE CHANGING LEGAL CONTEXT OF THE JUVENILE COURT

Analysis of the juvenile codes in the four states identified the following trends in juvenile code changes:

1. **Shifting borders.** There have been major changes in the boundaries between the juvenile and adult criminal courts. The process of transferring jurisdiction from the juvenile to the adult criminal court has been eased by lowering the minimum age for transfer, increasing the number and type of offenses for which juveniles can be transferred, and changing the criteria involved in the transfer decision.
2. **Decision making for transfer.** Authority for transfer decisions has increasingly shifted from judges to prosecutors and legislatures.
3. **Prosecutors' authority.** Prosecutors have gained more power in the court, specifically with respect to prosecutorial discretion in transfer decisions and with regard to sentencing options and other aspects of case processing.

4. **Increased tools for the juvenile court.** A variety of provisions have increased the ability of the juvenile court to enact punitive dispositions. These include blended sentences, mandatory minimum and determinate provisions, extended jurisdiction, and access to juvenile records.
5. **More punitive correctional programming.** Correctional options for juvenile felony offenders provide more punitive options with respect to placement in secure institutions and longer sentences.
6. **Justice by geography.** States differ dramatically on transfer, sentencing, correctional programming, records, and numerous other provisions of the juvenile codes.
7. **Restrictions on judicial discretion.** Juvenile court judges have far less discretion because of specifications of transfer provisions and sentencing options, but they retain substantial discretion in some states.
8. **Availability of resources.** Juvenile courts are increasingly limited by the lack of resources for treatment, education, and other rehabilitative goals.

THE COURT IN THE COMMUNITY: CONTEXTUALIZING THE ADMINISTRATION OF JUVENILE JUSTICE

The most significant finding from our research in the juvenile courts and state justice systems is the variability within and among the states with regard to the numbers of juveniles processed and the patterns of processing from initial detention through placement. This includes the various programs available for juveniles and the extent of reintegration services when they return from institutions. The four states have a long history of juvenile courts and juvenile justice systems, beginning in the early part of the twentieth century. They also exhibit tremendous variation in legislation, court structures and administration, resource structures, and community and cultural contexts, which influences case processing and outcomes both within and between states.

1. **Michigan.** In Michigan, the juvenile justice system is part of the social services system, the Michigan Family Independence Agency, that also subsidizes local services provided through the juvenile courts and voluntary agencies. There are strict guidelines and limitations as to how the subsidies can be expended. Legislation in the 1990s has shifted emphasis from rehabilitation to control and punishment with increased authority to prosecutors and reduced discretion for judges. Detail specified in statutes has inhibited the effective use of structured decision making. Legislation has resulted in a growth in commitments to the adult justice system even for non-violent crimes committed by juveniles.
2. **Ohio.** Ohio stands in contrast to Michigan in that an independent agency of state government, the Department of Youth Services, is in charge of state services and the allocation of subsidies to counties for reductions in commitments to state facilities. This policy, RECLAIM, has led to a marked reduction in commitments, although not to an overall reduction in institutional placements, which have grown at the local level. RECLAIM differs from the subsidies in the other three states in that it allows local communities wide latitude in the types of programs that are supported, ranging from alternative schools to residential placement. In contrast to Illinois, and perhaps Michigan, Ohio processes thousands of juveniles for being unruly and for school-related and status offenses. Structured decision making is used extensively in all of the courts studied, but largely for case management rather than for decision making for dispositions or sanctions.

3. **Illinois.** Illinois illustrates some of the limitations and problems with using legislation to reform the juvenile justice system. The recently passed juvenile code impacts courts differently, and, as a result, the courts vary in their case processing patterns. The courts studied vary greatly in size and location so the impact of community and culture is also highlighted. The state system is a part of the Department of Corrections, but that has not led to higher levels of state institutionalization than in the other three states. Funding from the state to counties is largely for probation and judicial staff, so counties have to raise their own funds for programs. Thus, local resource potential is an important variant among these courts. Structured decision making in Illinois is utilized primarily for management, but staff expressed dissatisfaction with the types of instruments that are available.
4. **Indiana.** In Indiana, similar to Illinois, the state Department of Corrections is responsible for state residential institutions and for selective funding of local court staff, but provides little support for programs. Indiana stands out among the four states in the highly variable case processing and programs among the counties. Each of the counties is quite autonomous in its decision making, although in recent years the state has been attempting to centralize some decision making. This change has not influenced structured decision making, which is not employed extensively and, in the largest court, is not employed at all. That court effects control through extensive rules and close monitoring of decisions. It has a very large case volume because police are not allowed discretion regarding arrests.

STRUCTURED DECISION MAKING IN JUVENILE JUSTICE

Although structured decision making (SDM) has been instituted as a technique for rationalizing decision making to insure equity and fairness, as well as to promote accountability in sanctioning, there has been a continuing concern about its use for promoting rehabilitation. We observed marked state and county variation among decision makers from both field observations and survey data. Probation officers were the most frequent users of SDM, largely for case management decisions. They also were promoters of SDM for needs assessment and stated that it was more valuable than for risk assessment. Smaller courts employed structured decision making more frequently than courts in metropolitan areas, probably because they had few professional clinical staff to assist in assessment. A majority of all professionals indicated that SDM mechanisms were not very useful for producing appropriate placements, increasing accountability, or reducing disparities in case processing.

THE ACCOUNTABILITY IDEAL IN JUVENILE JUSTICE ADMINISTRATION

Although the achievement of accountability has become popular throughout U.S. society and particularly in juvenile justice, there is increased skepticism about rehabilitation outcomes. Survey findings, however, indicate that a majority of court professionals prioritize accountability for the rehabilitation of youthful offenders. Fewer decision makers choose victim's rights and fairness as priorities, and punishment is the least often chosen accountability priority. Many respondents stated that minority overrepresentation is a serious problem, although prosecutors, in general, did not. Judges prioritize fairness, while probation officers prioritize rehabilitation, although not to the extent that defense counsel do. Prosecutors emphasize victim's rights and punishment. Female decision makers slightly prefer rehabilitation, while persons of color emphasize fairness. Younger respondents more often identify with the punishment-based definition of accountability than do older decision makers. Overall, despite the federal policy tilt toward punishment, respondents generally prioritize rehabilitation and fairness in juvenile justice administration. These findings point to reasons to be cautious about how accountability is pursued and to the need to demand clarification when it is announced as a major policy thrust.

ORIENTATIONS TOWARD DELINQUENCY CASE PROCESSING

We analyze how individual level, thematic, and contextual factors relate to professional orientations in the following three areas: general orientations toward delinquency case processing, prioritization of competing definitions of accountability, and sensitivity to the issue of minority overrepresentation. Our model predicts substantial variation in punitive and treatment orientations, with only females and defense attorneys consistently preferring treatment. Age and education are also significant predictors, with younger, lesser-educated staff more likely to support punitive responses in case processing. Also measured are thematic resonances, which refer to the concepts and issues a respondent prioritizes in making decisions about case processing. These include legal factors, victim's rights, family characteristics, and juveniles' behavioral tendencies. Decision makers in Indiana are more punitive than those in Michigan, while in Illinois they are more treatment oriented than in Ohio. In terms of court size, those in metropolitan areas are slightly more punitive than those in smaller courts. Thematic controls help to clarify the bases of professional orientation. The emphasis on the situational circumstances of the juvenile, especially the family, was found to be important with preference for treatment rather than punishment. Community contextual factors were significantly related to general orientations. Older and minority decision makers were more likely to view minority overrepresentation as a serious problem. The increase in publicly-supported punitive responses to juvenile offenders may be imbalanced and inappropriate in the views of most professionals who work in the court.

RECOMMENDATIONS

This report concludes with a defense of the rehabilitation-oriented juvenile court rather than advocating elimination of the juvenile justice system. There are physical, psychological, and social differences between children and adults; an emphasis on rehabilitation rather than punishment-oriented accountability is necessary because of these differences and marked problems being experienced today in the adult criminal justice system. Based on this study of 4 states and 12 courts, we recommend that the following areas be addressed:

1. **Overprocessing.**

We recommend that juveniles charged with status offenses or as unruly be processed by voluntary community agencies and associations. These organizations should receive funding for more outreach, dispute resolution, and restorative services in "at-risk" neighborhoods. We also recommend that courts have more explicit criteria about the types of cases that can be charged and that defense counsel be provided at intake processing.

2. **Minority overrepresentation.**

We recommend greater effort at the federal and state levels to enforce the provisions of the Juvenile Justice and Delinquency Prevention Act and decrease the number of children of color being processed by the juvenile justice system. We further recommend that incentives be provided to local communities to reduce the number of children of color in all types of secure out-of-home placement.

3. **Increasing involvement of females in the juvenile justice system.**

We recommend that structured decision-making instruments be gender specific, focusing on the particular characteristics of males and females, and that they address needs and protective factors as well as risk. We recommend that juvenile justice courts and agencies provide training and supervision in gender-specific services.

4. Information systems.

We recommend that juvenile justice systems improve the quality of data they maintain on case processing, management, and outcomes so as to monitor trends, maintain quality assurance, and diagnose strengths and weaknesses of their organizations.

5. Role of prosecutors.

We recommend that the role of prosecutors in the juvenile court be studied to understand its impact on case processing practices and norms. We further recommend that guidelines be developed about the role of the prosecutor in the juvenile court that take into account issues of child and youth development and the due process rights of juveniles.

6. Defense counsel.

We recommend greater attention be paid to the legal needs of children and that representation be provided at all stages of processing. We further recommend that defense counsel meet regularly with court staff to discuss issues affecting representation and case processing.

7. Increasingly punitive mandates of juvenile codes.

We recommend that juvenile codes be reviewed to assess their impact on juveniles, courts, and communities to ascertain their racial, age, geographic, and gender impacts. We recommend that in this review more attention be directed to the developmental characteristics of juveniles. We also recommend that juvenile court judges have greater authority in waiver and transfer decisions.

8. Structured decision making and the service continuum.

We recommend that structured decision making mechanisms be developed for those stages of the juvenile justice process where clear decision options exist. They should provide a reliable basis for choice of the least restrictive alternative for dispositions. Results of SDM monitoring should be provided to staff that use the instruments. Staff expertise and views about the utility of SDM should be considered in implementation.

9. Accountability.

We recommend that juvenile justice practice and policy pursue a balanced interpretation and application of accountability principles in juvenile justice. There are three contextual dimensions to consider in balancing the accountability ideal: 1) the justice system, 2) the community, and 3) the juvenile. Realization of the potential of the accountability ideal as an organizing principle in juvenile justice administration will not occur without this broad conceptualization.

10. Community involvement.

We recommend the development and support of community-based services that are family focused, empowerment oriented and culturally sensitive. They must be located within neighborhoods where there can be effective community outreach and involvement. These programs need to address the development of protective factors and resources for positive youth development as illustrated by Communities that Care, Youth as Resources and restorative justice models. We recommend that these community resources assume responsibility for many issues currently brought within the court's jurisdiction.

11. Specialty courts.

We recommend that specialty courts and alternative dispute resolution mechanisms continue to be developed to divert more juveniles from formal circuit court processing and to expand the role of the community in taking responsibility for the development of youth. We recommend that these courts not serve as extensions of formal social control, but that they serve to reduce reliance on formal processing and engage youth as well as adults.

12. Judicial leadership.

We recommend that attempts be made to continue to understand and advance judicial leadership in light of changes to the juvenile court. As the court continues to evolve, the roles of judges and other professionals will be vital to understanding the court community context. We recommend further research about these roles and training about current issues in the juvenile court and about ways in which judges can provide effective leadership.

13. Human rights.

We recommend that serious consideration be given to examination of policies and issues facing the juvenile justice system in the United States from an international human rights perspective. Some of the issues to examine include access to counsel, appropriate minimum ages for court processing, permeable boundaries between the juvenile and adult systems, conditions of confinement, minority overrepresentation, and application of the death penalty to juveniles.

Society's treatment of children provides a foundation for the type of adults that they will become and the type of society they will help to develop. A society that provides for the basic material, emotional, and developmental needs of its children, as well as engages them in society, will reap the benefits from this course of action. We must envision the juvenile justice system as part of such a system of support, but not as our primary instrument for child and youth development.

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CHAPTER 1

THE JUVENILE COURT IN HISTORICAL CONTEXT

In 1999, the United States “celebrated” one hundred years of the juvenile court. First instituted in Chicago in 1899 and then in Cleveland in 1902, the juvenile court marked a differentiation of criminal responsibility between children and adults. This differentiation resulted from considerations of children as immature, developing entities in need of care, nurturance, and guidance, not as agents responsible for criminal acts. While perceived differences between children and adults were not entirely new, massive social transformations throughout the 19th century marked a period where these differences became expressed in a number of legal and social institutions. These institutions recognized childhood as a distinct developmental period and viewed children as treatable and amenable to rehabilitation. Primary among these institutions was the juvenile court.

Soon after its implementation in Chicago, nearly every state in the U.S. adopted a juvenile code and instituted a juvenile justice system. The early mission of the juvenile court was to provide a forum that focused on the needs of the young offender in overcoming criminal or “deviant”¹ behavior. Fox (1996) notes, however, that the uniqueness of the juvenile court was not its philosophy of protecting children “from the rigors of the criminal justice system.” This philosophy was adopted in earlier institutions developed for the care and treatment of children. According to Fox (1996), what was unique about the court was the rapport between the child and judge, placing the judge and court in the role of providing rehabilitation, not punishment. Early juvenile court judges did not tie specific procedures to their practice and did not adhere to principles of due process (Fox, 1996). Premised on the “best interests” of the child, the job of the court was to offer treatment and rehabilitation in an informal environment based upon the child’s needs, not the offense. Control could be more effectively addressed through treatment programs than through punishment.

The juvenile court as a legal and social institution has proven durable throughout the 20th century, as all fifty states and the District of Columbia continue to operate juvenile courts that maintain jurisdiction over the criminal acts of children.² The original mission of the juvenile court, however, has not been equally durable over its one hundred-year history. Throughout this history, the philosophy behind and practice of the court has shifted between rehabilitative and punitive goals. This has not been a linear shift, but has alternated during different historical periods and in different local contexts.

¹ The juvenile court maintained jurisdiction over criminal acts, but also covered a number of non-criminal acts such as running away, incorrigibility, and truancy.

² Exceptions to this jurisdiction will be discussed below.

Additionally, these shifts have been precipitated by a number of social, cultural, political, and legal factors.

Platt (1977) analyzed the invention of the juvenile court and maintained that it was primarily invented to provide social control over the behavior of lower-class and immigrant children who middle and upper-class reformers believed were without sufficient parental controls. Francis Allen (1964) questioned the very idea of rehabilitation as a guiding principle for juvenile justice because it opened the door to many unintended and unanticipated consequences bearing negative effects for children. Feld (1999) maintained this argument in his assault upon the contradictory social control and social welfare philosophies behind the juvenile court, suggesting that they create a fundamental fault line in the mission of juvenile justice.

The Supreme Court also questioned the philosophy and practice of the juvenile court. In a series of decisions in the late 1960s and early 1970s, the Court challenged the notion that a caring court could substitute for procedural protections and held that due process is important for youth because, although the court operated under a rehabilitative rhetoric, results were often punitive in practice.³ Although the Supreme Court did not go as far as to provide the right to a jury trial, it did increase the procedural rights held by youth. These decisions attacked the informal procedures that formed part of the foundation of the rehabilitative mission of the juvenile court. However, the refusal to provide the right to a jury trial maintained distinctions between the juvenile court and the adult criminal court.

In addition to their general arguments about the punitive nature of the juvenile court, critics also attacked the disparate treatment of particular groups by the court. Scholars have documented how young women and minorities have historically been treated unequally by the system (Chesney-Lind & Shelden 1992; Sarri, et al., 1998). Disparate treatment of groups based upon gender and race thus represented another crack in the foundation of the juvenile court. Procedural informality and vague principles such as "the best interests of the child" created opportunities for extra-legal factors - race, ethnicity, gender, class, or family status - to influence decision-making.

Studies of the effectiveness of rehabilitative programs on delinquents further eroded the rehabilitative mission of the juvenile court. In the 1970s, a widely cited study claimed that "nothing works" in correctional treatment programs (Martinson, 1974). Allen (1981) documents this as the "decline of the rehabilitative ideal." This phenomenon led many states to reconsider the idea of juvenile justice which slowly resulted in a shift in the fundamental philosophy of the juvenile court.⁴ As a result,

³ For a discussion of these cases, see pgs. 7-9.

⁴ For a complete discussion of the decline of the rehabilitative ideal and the ascendancy of the concept of accountability as the organizing principle for the juvenile court, see Chapter 9.

beginning in the late 1970s and continuing since, states have enacted substantial legislation affecting the juvenile court and reconsidering its mission.

These legislative efforts gained substantial momentum in the late 1980s and 1990s. During the period of 1992-1997, every state reformed its juvenile code to ease the transfer of youth to the adult criminal justice system, to enact tougher dispositions and correctional placements, to open the court and juvenile records to the public, and/or to include more victim involvement (Torbet et al., 1996; 1998). The tone and content of this legislation was justified in part by policy-makers as a response to rising juvenile violent crime from 1987-1994. The magnitude of legislative changes has led many to wonder about the future of the juvenile court.

Our report examines decision making in the juvenile court. This chapter traces the evolution of the juvenile court to set the context for the report. Specifically, it considers the origins of the juvenile court, meanings associated with its philosophy, its structure and operation, and factors leading to widespread changes in the meaning and operation of the court. The remaining chapters examine code changes, factors affecting the administration of juvenile justice, accountability as an organizing principle for juvenile justice, risk assessment and structured decision making, and case processing orientations of decision makers. Through this report, we seek to provide a picture of juvenile court decision making that highlights the dramatic change from its original mission.

THE INVENTION OF THE JUVENILE COURT

The creation of the juvenile court marked a substantial development in the recognition of childhood as a social category. Although this chapter will not thoroughly examine the construction of childhood, it is important to note that differences in the perceptions of children and childhood were instrumental in the development of legal and social institutions for children, such as the juvenile court. In turn, the implementation of these institutions further defined and legitimated these notions, thereby providing specific meanings to the category of childhood. Consequently, changes in notions and perceptions of childhood are instrumental in understanding both the original philosophy of juvenile justice and changes in its mission.

Numerous scholars have posited that the notion of childhood as a universal social category is a relatively recent social construct⁵ (Aries, 1962; Postman, 1994; Feld, 1999; Ainsworth, 1991). Historically, chronological age was a consideration in different areas of social life, but strict attention to

⁵ Aries (1962) documents that childhood was not recognized until as late as the 16th century and between the 16th and 19th century middle and upper class families began to treat children differently than in the past. Childhood as a universal category is credited as a 19th and 20th century invention and is still subject to much debate.

the needs of infants and children, as well as ideas of their dependence into their mid-to-late teens, was not universally recognized in the U.S or Western Europe. Without the existence of social and legal institutions, children were often integrated into the economic and social lifestyles of adults beginning at age seven (Aries, 1962). With regard to considerations of age and crime, Tanenhaus (2000) notes that chronological age was a main factor in determining whether an individual accused of a crime would be tried in the criminal courts prior to the invention of the juvenile court. One-to seven-year-olds were not tried in the courts because they were not considered to be capable of the “felonious discretion” necessary to commit an offense (Tanenhaus, 2000). Seven-to fourteen-year-olds were also largely immune from court prosecution because they did not have the necessary criminal intent, although this presumption was rebuttable. Individuals over fourteen were presumed capable of being tried in the criminal courts.

As perceptions of children began to change, particularly among the middle- and upper-classes, changes in their treatment began to evolve in social life. The creation of separate institutions for “juvenile offenders” in the 1820s is one example of this change. Several eastern states developed these institutions to offer more humane environments and provide rehabilitation for children (Sutton, 1988; Schlossman, 1977). With the development of these facilities, the belief that children could be rehabilitated was born. However, this was not a linear change from adult treatment to recognitions of childhood. An example of the ambiguity involved in the meanings and recognition of childhood is Illinois. In the second half of the 19th century in Illinois, judicial decision making concerning children was influenced by the determination of a child’s fitness for rehabilitation (Fox, 1996). The Chicago Reform School, established in 1856, was reserved for children, but was subsequently closed in 1872 and children were sent to adult reformatories. Additionally, the Supreme Court of Illinois declared it unconstitutional to confine children not charged with a criminal offense in the Reform School or penal institution. This example illustrates the changing perceptions of children and their different needs, yet also exemplifies the extreme confusion with how to represent these differences in legal and social institutions.

Beside the changing perceptions of children during the 19th century, the U.S. experienced massive social change during the mid-to-late 19th century in the form of industrialization, urbanization, and immigration. These changes signified a shift from an agrarian to industrial lifestyle, movement from small towns to cities, and the influx of many European immigrants into major urban areas. As a result of these massive changes, the American social structure was profoundly altered (Wiebe, 1967).

The influx of people into central cities caused a number of problems – crime, poverty, poor sanitation, overcrowding, and lack of control – that previously had not affected small towns. As notions of childhood changed, people became increasingly concerned about these problems, particularly about their effects on children. Taking into account new knowledge of human behavior, social reformers, primarily middle- and upper-class men and women, focused on reforms that would alleviate these

conditions, taking into account new knowledge of human behavior. Known as “Progressives,” these reformers acted with great optimism that human behavior could be shaped, controlled, and altered by attending to the conditions that caused particular behaviors. Essentially, the Progressive Era denoted a period with a strong belief in science and scientific efficiency and the realization of this knowledge in social policy reforms instituted through legal and social institutions regulated by the state.

Many Progressive reforms, such as restrictions on child labor, compulsory school attendance, welfare benefits, and the juvenile court, centered on children. Progressives capitalized on changing perceptions of the nature of children and childhood and determined that children were vessels acted upon by social forces. The goal of Progressives was to act upon children in ways that would provide for positive growth and would remove or reduce harmful social conditions. Thus, children were deemed to be different from adults and were considered dependent, innocent creatures in need of care and guidance. The juvenile court served as a primary component in this construction of childhood. Recognizing the lack of responsibility and culpability of children in committing criminal acts, the court sought to provide a forum that considered the root causes of the act, not the act itself. By emphasizing the needs of the child and acting in his or her “best interests,” the court could treat the child and attempt to deal with the social conditions that were believed to cause his or her transgression. Identified as the “rehabilitative ideal,” this premise further legitimated the creation of a separate system for children, as well as specifying the procedures that would govern its practice.⁶

After the implementation of the first juvenile court in Cook County, Illinois, every state had implemented a juvenile justice system by the 1920s (Lou, 1927). The juvenile court differed from the adult criminal justice system in many ways. First, its terminology did not speak about guilt, innocence, trials, or sentences, but created a framework similar to civil matters by speaking of adjudications and dispositions (Platt, 1977). Correctional institutions were not called prisons, but training schools. This language was intended to avoid labeling the youth and served as more of a medical diagnosis than a marker of blame. Second, the focus of the court was not on the immediate offense of the child, but instead on the needs or “best interests” of the child. Rehabilitation and treatment were considered the goals of the system, not punishment or “just desserts” (Rothman, 1980; Allen, 1981). Rehabilitation was based on the best scientific knowledge of the time and was intended to deter a child from future crime.

Third, the court structure featured an informal procedural system that did not include lawyers, rules, or due process, but functioned through informality and discretion. A picture capturing this philosophy of procedural informality would show a judge as a fatherly figure with “his” arm around the

⁶ As noted earlier, scholars have critiqued both the philosophy of this mission, as well as the intentions behind it. For a thorough discussion of these critiques, see Platt, 1977; Feld, 1999; Allen, 1964, 1981; Rothman, 1980; and Chesney-Lind & Shelden, 1992.

child attempting to help turn him or her away from a life of crime. Fourth, privacy was an important component of the juvenile court system. Reformers did not believe that the transgressions of youth should follow a child into adulthood and thus, developed a system that kept the public out and expunged records upon the child reaching the age of majority, typically age eighteen (Platt, 1977). Finally, the juvenile court maintained jurisdiction over youth for both criminal and noncriminal behavior. Noncriminal behavior included activities such as truancy, incorrigibility, and sexual behavior. Because dispositions were not premised upon the seriousness of the offense, dispositions for noncriminal behavior could be equivalent or more serious than those for criminal behavior. These differences between the adult and juvenile court demonstrate and epitomize the mission of the juvenile court and its major premises.

THE EVOLUTION OF THE JUVENILE COURT

The juvenile court went largely unquestioned for the first half of the twentieth century (Manfredi, 1998). Implementing such a new institution and system seemingly posed numerous problems for policy-makers and practitioners during this period, but these activities were not a focal point of scholarly attention (Manfredi, 1998). Despite any problems then, the juvenile court was successfully instituted throughout the country. It was not until after World War II that scholarly attention began to focus on the juvenile court (Manfredi, 1998). This attention came in the form of challenges to the processing of youth and the programs and placements that were available, as well as legal changes to the procedures of the juvenile court.

The 1950s and 1960s were a period when critics challenged the operation of the court and the institutionalization of youth in "training" schools. Critics decried the rehabilitative rhetoric but punitive effects of the court and sought alternatives to incarceration such as community-based programs. Noted criminologists posited that criminal behavior was rooted in the lack of job and educational opportunities for youth, particularly poor youth (Cloward and Ohlin, 1960). Federal efforts under anti-poverty programs, such as the Mobilization of Youth, were implemented to provide increased opportunities in the hope that they would lead to the prevention of or desistance from delinquent behavior. Many policies that focused on decriminalization, deinstitutionalization, and the development of community-based programs were implemented and extended in many states during the 1960s and 1970s (Downs, 1976). Consequently, increased attention to the juvenile court after World War II began to question its original mission and whether the court was truly serving this mission, but did not entirely dismiss its necessity. Instead, policy and program reforms were implemented to enable the court to better serve its mission.

Francis Allen (1964) provided a particularly insightful look at the juvenile court and its mission. Although acknowledging the potential benefits of the goal of rehabilitation, he exposed numerous

problems with its utilization as an organizing principle for juvenile justice. Primarily, he argued that rehabilitation is a vague and shifting goal and that a focus on help often brings coercive and punitive control. Furthermore, the court often delivered decisions that did not provide for the best interests of the child, but instead acted as an agent of social control. Allen urged the juvenile court to implement due process protections for youth to guard against the arbitrary and punitive treatment in the area he termed the “borderland” of criminal justice.

The Supreme Court addressed these arguments in a series of cases beginning in 1966. *Kent v. United States* (1966)⁷ considered whether due process protections were required in the decision to transfer children to the criminal court. The transfer of children to the criminal court by active or passive means was traditionally a mechanism through which the juvenile court handled “tough” cases (Tanenhaus, 2000). In *Kent*, the Court held that the decision to transfer was a “critically important” action addressing the child’s interest in remaining within the exclusive jurisdiction of the juvenile court.⁸ Protecting this right required a hearing comporting with at least the fundamental notions of due process and based on enumerated criteria.⁹ Thus, *Kent* served to provide an interest in remaining within the juvenile court and sought to implement procedural formality in the decision to remove a child from the court. This decision recognized limitations of the juvenile court, but, at the same time, formalized waiver as a means to remove the difficult cases, thereby protecting the traditional juvenile court.

In 1967, the Supreme Court decided *In re Gault*.¹⁰ While *Kent* focused on procedures to remove youth from the juvenile court, *Gault* addressed the necessity of formal procedures within the juvenile court. The *Gault* decision recognized that the rehabilitative rhetoric but punitive operation of the court provided the worst of both worlds. Youth received neither the rehabilitative benefits justifying procedural informality nor the due process protections of the criminal court. Speaking for the majority, Justice Fortas declared that the “condition of being a boy does not justify a kangaroo court.”¹¹ Consequently, the Court held that due process was necessary in the juvenile court and afforded children due process protections but maintained the rehabilitative mission of the court.¹²

⁷ 383 U.S. 541.

⁸ *Id.* at 556-57.

⁹ *Id.* at 557. If state enumerated criteria did not exist, the Court held that the juvenile court should consider the seriousness of the offense, whether the offense was committed in an aggressive, violent, premeditated, or willful manner, whether the offense was against person or property, giving greater weight to persons, merit of the complaint, desirability of trying the case in the juvenile court, if co-defendants will be tried in the criminal court, sophistication and maturity of the juvenile, record and previous history of the juvenile, and the prospects for likely protection of the public and the rehabilitation of the juvenile.

¹⁰ 387 U.S. 1 (1967).

¹¹ *Id.* at 28.

¹² *Id.* at 31-57. The due process rights afforded to youth include: notice of charges, access to counsel, opportunity to confront and cross-examine witnesses, access to counsel, and protection against self-incrimination.

The *Kent* and *Gault* decisions were two of the first Court decisions to recognize rights for children. Previously, parents held primary authority for the control and upbringing of children, while the state also maintained substantial authority over children if parents did not uphold their responsibilities or if intervention was reasonably related to legitimate state interests (Levesque, 2000). These cases provided some hope to advocates of children's rights and to critics of the juvenile court that providing due process and other constitutional rights to children would better protect them in their relationship with the state. *In re Winship* (1970)¹³ was the next major case decided by the Court concerning the rights of children in the juvenile court. In *Winship*, the Court held that juvenile and adult criminal court proceedings are not substantially different with regard to the need for due process, and, therefore, delinquency adjudications must be determined by the "beyond a reasonable doubt" standard of the criminal court, not the "preponderance of the evidence" standard operating in juvenile and civil courts. Thus, *Winship* took another step towards providing children with procedural rights in the juvenile court equivalent with those of adults.

The Court's decision in *McKeiver v. Pennsylvania* (1971),¹⁴ however, stopped short of requiring further procedural protections for juveniles. Previous decisions challenged and rejected the original philosophy of the juvenile court that a judge considering the best interests of the child could substitute for procedural protections. In *McKeiver*, the Court considered whether children held a right to trial by jury. The Court did not extend the right to a jury trial because it determined that due process only required "accurate fact finding," a result that could be reached by a judge. They concluded that the imposition of jury trials would institute full adversarial proceedings, deviating from the rehabilitative goals of the juvenile justice system.

Although stopping short of the full procedural conformity of the adult criminal court, these cases challenged the original mission of the juvenile court. The court rejected the rehabilitative rhetoric as the sole guard against punitive practice and instituted safeguards to protect against the unfettered control of the juvenile court. Furthermore, the decisions challenged the practices of the juvenile court. The introduction of lawyers and procedures threatened an institution premised on informal practice and the vast discretion allotted to decision makers to achieve particular goals. Adherence to the mandates of these decisions required substantial changes in the mission, practice, and structure of juvenile courts. While they upheld the necessity of a separate system of justice for children, these decisions did not permit this system to operate without limits (Feld, 1993). Consequently, they represented a tension regarding the place of children in society. Whereas children were previously considered to be innocent creatures in

¹³ 397 U.S. 358 (1970).

¹⁴ 403 U.S. 528 (1971).

need of control, guidance, and care, these decisions represented a limited recognition of a legal personhood for children.¹⁵

THE JUVENILE COURT CONTEXT

The post-*Gault* era has been marked by continual change in the practice and meaning of juvenile justice. Following the reforms of the 1960s and early 1970s, Margaret Rosenheim (1976) called for a reconceptualization of the mission of the juvenile court. Rosenheim's call came at a time of a great deal of legislative, administrative, and judicial activity concerning children and the juvenile court. Recognizing that its original ideal was unreachable, and possibly undesirable, she advocated for a coherent statement of goals about the meaning and purpose of the juvenile court. In Rosenheim's (1976) view, this reconceptualization should seek a more limited role for the court in the lives of children.

Since Rosenheim's call, a reconceptualization of the juvenile court has taken place, although it is perhaps not the one for which Rosenheim was advocating. This reconceptualization has reversed many of the reforms of the 1960s and 1970s and is largely punitive in effect. Feld (1999) argues that the juvenile court has been transformed, but not reformed, by judicial, administrative, and legislative changes. Zimring (1998) suggests that the mission of the court has been reoriented towards punitive goals. The decline of the rehabilitative ideal, legislation focused on proportionality and responsibility, the inability of *Gault* to meet its promise, the increased processing of children in the court, and changes in societal conceptions of children and childhood are factors associated with this change. This section will briefly examine each of these phenomena and their meaning for juvenile justice.

The post-*Gault* era experienced what Allen (1981) termed the "decline of the rehabilitative ideal." A declining belief that delinquent children could be treated and rehabilitated shook the underpinnings of the original court mission and helped produce the philosophy that children should be held responsible, or accountable, for their acts.¹⁶ This shift is evidenced by widespread changes in juvenile court legislation. Starting in the late 1970s, legislatures enacted numerous changes in juvenile codes that reflected a declining emphasis on rehabilitation and an increased emphasis on punishment. Proliferating in the 1990s, these changes included provisions easing the transfer of children to the adult criminal court, creating mandatory minimum sentences, extending jurisdiction, providing concurrent jurisdiction with the adult criminal court, implementing punitive correctional programming, increasing victim involvement,

¹⁵ For a discussion of the recognition of a legal child or adolescent personhood, see Levesque (2000) and Zimring (1982). Although providing some recognition of this personhood, the Court has routinely maintained the role of the family as the primary source of control and decision-making for children, with the state acting when the family failed in its responsibility or when it acted in accordance with a reasonable state interest (Levesque, 2000).

allowing the disclosure of juvenile records, and opening juvenile hearings. Thus, the original rehabilitative ideal of the court is being replaced by principles of responsibility and accountability.

Despite increased emphasis on accountability, the implementation and effects of *Gault* and its progeny have met with limited success. Implementing the standards of *Gault* introduced increased procedural formality and lawyers into the court. In a case study of a juvenile court in the 1960s, Emerson (1969) found that the probation officer played a variety of roles, including presenting the state's case, and maintained substantial decision-making discretion in the juvenile court. While judges played a significant role, defense attorneys and prosecutors were seldom part of the process. *Gault* introduced defense attorneys and prosecutors to the court. Although the potential for defense attorneys to play an important role in the court was considered high, they often do not appear in many courts and their effectiveness has been questioned.¹⁷ Prosecutors, however, are playing a greater role in many areas of the court. They are increasingly responsible for transfer decisions, either through direct filing in the adult criminal court or through the choice of charge. Additionally, they play a significant role in the flow of cases into the court through intake, petition, and disposition decisions. These changes in the role of different practitioners in the juvenile court have transformed policies, procedures, and practices of the court.

Juvenile court processing has also changed over the last three decades, despite fluctuations in the crime rate and juvenile population. Recent data on the court indicate that it is increasingly operating as a formal institution. The total number of cases formally petitioned and disposed of by the juvenile court continues to increase despite a dramatic decline in juvenile crime since 1994 (Stahl et al., 1999). Incarceration rates have also increased since the de-institutionalization of the 1970s and continued to increase during the 1990s despite the decline in violent and serious crime (Stahl et al., 1999). Racial and gender disparities still exist in processing and incarceration despite federal initiatives to reduce their effects. Children of color now constitute the majority of youth in secure confinement. Children of color have consistently grown as a proportion of the total number of children incarcerated. A recent Michigan study found a strong correlation between the number of minority youth in the population and the rate of disproportionate juvenile confinement (Sarri, et al., 1998).

Scholars have argued that the conceptions and meanings of the categories of childhood and adolescence are changing. Several scholars have noted that these changing notions have removed distinctions between how children and adults are perceived and treated (Feld, 1998; Ainsworth, 1991). Other scholars have noted that certain acts, such as violent crimes, lead to the labeling of children as

¹⁶ For a full discussion of the decline of the rehabilitative ideal and the emergence of the accountability principle in juvenile justice, see Chapter ?.

¹⁷ Feld (1993) estimates that defense attorneys were only involved in 5% of all juvenile cases prior to *Gault*, and although their involvement substantially increased after *Gault*, they still do not appear in many cases and are not

adults without a thorough understanding of the maturity, competency, culpability, or the social realities of the child (Zimring, 1998; Males, 1999; Levesque, 2000). While in many areas of social life children are still considered dependent and in need of protection, care, and control, in other areas they are increasingly being treated as independent and autonomous actors.¹⁸

In light of many of these changes, Rosenheim's call for a reconceptualization of the juvenile court's purpose and mission is still necessary. A large part of this reconceptualization requires that we gain an understanding of the operation of the juvenile court. Research has documented many of the changes identified above. Subsequent research must continue to add to this knowledge base in order to further define the effects of these changes on the court, the processing of cases through the court, the decision-making practices used by practitioners, and the roles and attitudes of practitioners in the juvenile court.

Our study examines juvenile court decision making in order to examine factors that impact courts. We examine code changes, differentiating factors in the administration of juvenile justice, the use of risk assessment and structured decision making, the accountability ideal as a organizing principle of juvenile justice, and attitudes of practitioners with regard to the court. We hope that this study adds to the knowledge base concerning decision making and can be used to address juvenile justice policy and administration. Through this process, we can begin to envision what the juvenile court can look like in the future.

overly effective when they do appear (Feld, 1993; ABA, 1995; Sarri and Hasenfeld, 1976; Stapleton and Teitelbaum, 1972).

¹⁸ See Levesque (2000), children may waive their right to an attorney and can confess, but they still cannot contract. Juvenile court legislation is increasingly viewing children as adults in the commission of many crimes, despite recognitions that the commission of a criminal act does not imply maturity, competency, and culpability.

CHAPTER 2

RESEARCH GOALS, DESIGN, AND METHODS

This study examines the use of structured decision making in juvenile courts and state correctional agencies. The goals of the juvenile justice system have always been multiple, beginning with rehabilitation, the primary goal when the juvenile court was established. However, other goals – due process, “just desserts,” protecting public safety, and accountability – have also served as organizing principles in juvenile justice. More recently, policies advocating accountability seem to have predominated over other goals of the court and concern exists that structured decision making in support of individual accountability has begun to fundamentally change the juvenile justice system. The specific goals of this study, defined in detail in this chapter, focus on key aspects of the juvenile justice system that are important to understanding accountability and structured decision making. In this chapter we present the goals of the study, sample selection criteria used to select twelve juvenile courts in four states, and the processes used to collect and analyze data.

RESEARCH GOALS

This research had the following six specific goals:

1. Assess the effects of recent revisions in juvenile codes on decision making processes in juvenile courts.

The effects of juvenile codes on the juvenile justice system are complex, depending on state and federal legislation as well as local implementation by courts and communities. Legislative codes are a formal expression of *state* governmental policy for juvenile courts. While juvenile codes are the purview of state legislatures, federal legislation also affects the design and implementation of codes and the juvenile justice system by proposing justice system models and by funding model programs. Further, among counties that are governed by the same formal codes, police, courts, and prosecutors have some discretion to implement and enforce codes as they see fit. Thus, it is necessary to examine local courts and the perceptions of court decision makers, especially prosecutors and judges. This study compiles and summarizes the most recent national studies and research on juvenile codes. We provide detailed information on code revisions during the 1990s in the four sample states. Finally, we examine survey

data about the perceptions of and attitudes towards code changes from judges in the twelve sample courts.

2. Identify correlates of processing and placement decisions.

We examine the use of structured decision making and the variables that are considered in both processing and placement decisions. Among the variables considered are criminal history, risk assessment recommendations, placement alternatives and socio-demographic characteristics (i.e. race, family structure, and gender).

3. Document and analyze the policies and practices of accountability as an organizing principle that defines the relationships among public agencies and citizens.

We document the rhetorical primacy of the accountability ideal nationally as the organizing principle for the juvenile court. In this context, accountability takes the following three forms: system accountability, organizational accountability and individual accountability. We explore the ascendancy of the ideal of individual accountability over system and organizational accountability. We review research that shows how accountability is differentially applied and examine its relationship to the other organizing principles of the juvenile court, due process and rehabilitation. Further, we examine the implementation of the accountability ideal, considering how accountability is measured and operationalized. To accomplish this goal we review and evaluate research on the models that organize juvenile courts, particularly that related to the application of the accountability ideal in juvenile justice administration. We examine the variations that exist in the implementation of all forms of accountability – individual, systemic and organizational. We discuss attempts, through structured decision making, to make individual accountability and system/organizational accountability more predictable. Finally, we evaluate responses to practitioner surveys regarding definitions and implementations of accountability, linking practitioner attitudes toward organizing ideals to organizational decision making.

4. Review research on classification and predictive schemes for delinquent behavior and research on structured decision making to determine their applicability to juvenile justice decision making. Assess various types of structured decision making and their utility in sample courts.

The research and history of predictive classifications for delinquents are the predecessors of Structured Decision Making (SDM), a relatively recent technique for rationalizing organizational

behavior. The uses of SDM, however, are much broader than just case decisions or even the use of predictive schemes, and we thus examine it as a technique used to control organizational behavior. To accomplish this goal we examine research on classification and predictive schemes for delinquents as well as the literature on SDM, focusing on recent applications of risk and needs assessment instruments. Data on SDM from the 4 states and 12 courts is presented, as well as survey responses on the uses of structured decision making in these courts.

5. Assess the context for decision making to find causes and correlates of case processing decisions and the patterns of accountability and structured decision making as practiced in 4 states and 12 courts.

Juvenile courts are complex organizations facing many pressures and demands. While they face similar general pressures they may act quite differently. We describe this complexity and explain how and why courts process cases as they do. We examine the policies and practices of case processing in terms of the following four sets of contextual factors: legislation, appellate decisions, and court rules; resources, funding, and services; court organization and oversight; and court culture and roles. We identify the ways courts structure decisions and examine how the contexts in which courts operate affect court decision making. Towards this goal, data from states, courts, and communities is compiled and analyzed. Specifically we used data from court reports and information systems, documents and copies of procedures, observations of case processing, and interviews of decision makers to explore and understand the policies, procedures and patterns.

6. Assess practitioners' perspectives about structured decision making, classification, and risk and needs assessment.

Within courts are groups of practitioners – judges, prosecuting attorneys, defense attorneys, and probation staff – all involved in case processing decisions. Some difficulties in implementing SDM derive from the varied perceptions of the problems and priorities in juvenile justice systems. Decision makers also differ in their definitions of accountability and their general orientations toward rehabilitation, accountability, punishment, and restitution. To accomplish this goal, we examine research and data on structured decision making in juvenile courts and juvenile corrections. Data about procedures, attitudes and the decision making patterns were gathered from the study of twelve courts in our sample. Survey data are used to find patterns that suggest decision typologies in juvenile courts, and we examine patterns by demographic characteristics such as education, age, and gender.

SAMPLE SELECTION

This section addresses the following four areas: the selection of the states and counties for inclusion in this study, data sources, data collection procedures, and the analysis plan. The data needed to accomplish the goals identified previously come from several "levels" including state juvenile justice systems, courts within those systems, and various participants within the courts. One challenge in an exploratory project of this scope was how to gather comparable data across these systems and positions.

Selection Of States And Counties

Four contiguous Midwestern states (Illinois, Michigan, Indiana, and Ohio) were selected under the assumption that they would share common properties, such that the states' general environments would not be a significant factor affecting interpretation of the research findings. Among factors that these four states have in common are the following: concentrations of basic industry, extensive farming in rural counties, one or more major urban areas, and significant racial and ethnic diversity. There are also important differences among these states; for example, Indiana is the most rural and least racially diverse while Illinois is the most urban and the most racially diverse. These states have long-standing and well-established juvenile court systems and some history of use of structured decision making through use of risk and needs assessment instruments.

The four sample states have some notable similarities and differences. They are most similar in the percent population between 5 and 17 years, the percent of children in poverty, and the percent of families headed by a single parent. Indiana is somewhat better off than the other states with the lowest percentage of families headed by single parents, the lowest child poverty rates, the lowest percent unemployed and the lowest number of serious crimes known to police. However, it has the lowest percentage of college graduates, the lowest median household income, and the highest juvenile violent crime arrest rate.

Table 2.1 presents some of the similarities and differences of these states.

Table 2.1: Sample State Characteristics

	% Population Under Age 18 (2000) ¹	Teen Birth Rate/1000 Females 15-17 (1997) ²	% Families Headed by Single Parent (1997) ²	% H.S. Graduate (2000) ³	% Youth of Color (1996) ⁴	% Un-employed (1996) ⁴	Median Household Income (\$) (1997) ²	% Child Poverty (1997) ²	Serious Crimes Known to Police (1996) ⁵	Juvenile Violent Crime Arrest Rate (1997) ⁶
Illinois	26.1	34	27	84.3	22.2	5.3	48,800	18	6,064	286
Indiana	25.9	32	22	84.2	11.3	4.1	46,200	14	4,857	381
Michigan	26.1	25	28	85.4	18.9	4.9	48,700	19	6,129	284
Ohio	25.4	29	27	85.9	14.7	4.9	46,500	17	5,541	330
U.S.	25.7	32	27	83.1	20.5	5.4	43,400	21	5,928	403

One criterion for selecting these states also focused on the variation between them on characteristics related to case processing and juvenile justice. There are significant variations in the state departments responsible for juvenile justice:

¹ U.S. 2000 Census, <http://factfinder.census.gov/home/en/pldata.html>

² *Kids Count Data Book: State Profiles of Child Well-Being (2000)*. The Annie E. Casey Foundation; Baltimore, M.D.

³ For 18 years and over. U.S. Census Bureau, Internet release date: December 19, 2000.

<http://www.census.gov/population/www/socdemo/education/p20-536.html>

⁴ Youth population is for ages 10 to 19. U.S. Census Bureau. *USA Counties 1998*,

<http://tier2.census.gov/usac/index.html-ssi>

⁵ Snyder, H. and Sickmund, M. (1999) *Juvenile Offenders and Victims: 1999 National Report*, Washington, DC: OJJDP

⁶ Figures represent arrests for serious crimes per 100,000 persons age 10 to 17. Snyder, H. & Finnegan, T. (1999). *Easy Access to FBI Arrest Statistic 1994-1997*. Pittsburgh, PA: National Dept for Juvenile Justice. Washington, D.C: Office of Juvenile Justice and Delinquency Prevention.

1. In Michigan, juvenile cases are assessed by the Family Division of the Circuit Court, a structure that was implemented in 1999 just when the research got underway. At the state level, juvenile justice is the responsibility of the Michigan Family Independence Agency (FIA). That department has responsibility for all youth committed to them by the local courts. The majority of youth are subsequently placed in several public and many private residential non-profit agencies. The State also provides monies for the counties to provide services within the counties or in other placement alternatives chosen by the court, including out-of-state placement. The counties must reimburse the state for 50% of the cost of placement for youth who are committed to it.

2. In Illinois, juvenile cases are processed by county juvenile courts. Youth committed to the state by the juvenile courts are assigned to the Illinois Department of Corrections, Juvenile Division. The state pays the costs for youth committed to IDOC. Those services are primarily residential but also include aftercare. IDOC operates 7 juvenile facilities, but is constructing other facilities and expanding some of those in operation. Placements are primarily public, except in limited situations. The state provides funding for county probation staff through the Administrative Office of the Illinois Courts, but not for other services that are the responsibility of the county, including residential placements other than the IDOC. Additional programs are operated at the state level for delinquent youth by the Department of Human Services and Department of Children and Family Services.

3. In Indiana juvenile cases are processed by the county Superior Courts, some of which have separate juvenile divisions. Youth committed to the state are committed to the Indiana Department of Corrections, Juvenile Division. The IDOC operates 10 facilities, 2 secure ("core") facilities and 8 "satellite" facilities. The IDOC also contracts with 9 private agencies which may also serve non IDOC youth. Juveniles may also be committed by the court to other, non-IDOC contract (private) facilities, some of which are outside Indiana. The State shares the costs (50%) of commitments to the IDOC. All other services are county funded, including probation, detention and community programs. The State pays judicial salaries. State standards for judges and probation officers are implemented by the State Court Administrator. Detention standards are set by statute and implemented by the Department of Corrections.

4. In Ohio, juvenile cases are processed by county juvenile courts that are a division of the Court of Common Pleas. Youth committed to the state are placed with the Ohio Department of

Youth Services, but this accounts for a small percentage of disposition alternatives in Ohio. Ohio has a special program, RECLAIM, under which the state provides monies to counties for retaining juveniles in the counties for a variety of services, including residential placements in public and private facilities. Counties may and do use their own funds for a variety of services.

Indiana and Michigan use comparable risk assessment instruments in some jurisdictions and state agencies. Both were familiar with the difficulties of implementing structured decision making state-wide. Ohio uses structured decision making most extensively, but primarily uses it at decision making regarding detention, court intake, and for probation management at the county level. The Department of Youth Services also employs SDM to place youth in alternate facilities and/or programs. Illinois uses structured decision making primarily in probation management and detention.

All the states had recently revised their juvenile codes and increased the tools to process youth more punitively, including their ability to try children as adults for serious criminal offenses. All the states had strong and independent county juvenile court systems but prosecutors were increasingly playing more significant roles in court decision making. The states varied greatly in the availability and types of state resources at local as compared to state levels.

In each state, three counties were selected based on information obtained from first site visits to the states.⁷ Three selection criteria were applied to include a variety of contexts for structured decision making. First, a populous (urban) jurisdiction was selected in each state. These jurisdictions had large case volumes and pressure to process cases quickly, as some of the most serious social problems such as poverty and high arrest rates occurred in large urban jurisdictions. Second, a community was selected that provided a range of community resources for dispositional programs. These resources would provide many dispositional alternatives suggesting more complex decision making. The final criterion was to select communities with several social problems but limited dispositional resources. These communities faced processing pressures without the resources. We posited that decision making will be simpler and more constrained in courts with few resources.

Mitigating our choice of counties were such things as a court's willingness to participate and geography. A few counties were selected but were unable to participate for a variety of reasons, such as court reorganization or staff turnover. We sought to avoid a geographic concentration in our sample courts. For example, in one state, most of the large and medium-sized counties were geographically

⁷ The first site visit was made to the state-wide juvenile justice agency. One purpose of the initial (state) site visits was to obtain information about courts that would assist in the process of court selection.

contiguous, so, out of necessity, smaller courts were selected. Table 2.2 presents some information on the selected counties.

Table 2.2 Characteristics of Sample Courts

State	Court	Size of jurisdiction	Child Poverty ⁸	Range and extent of service resources ⁹	Population density
State 1: MI	MetroA	Large	High	Medium	High
	MidMetroA	Medium	Low	High	Moderate
	NonMetroA	Small	High	Medium	Low
State 2: OH	MetroB1	Large	High	Medium	High
	MetroB2	Large	Medium	Medium	Moderate
	MidMetroB	Medium	Medium	Large	Moderate
State 3: IL	MetroC	Large	High	Medium	High
	NonMetroC1	Small	Low	High	Low
	NonMetroC2	Small	High	Medium/Low	Low
State 4: IN	MetroD	Large	High	High	High
	MidMetroD1	Medium	High	High	Moderate
	MidMetroD2	Medium	Medium	Medium	Low

DATA COLLECTION PROCEDURES

We collected data in phases from March, 1999 to August, 2000 during periodic site visits. Data were obtained from the following three sources: existing research and reports, interviews with court practitioners and observations of courts, and surveys of practitioners in the courts. Some data were part of the public record and were obtained from existing publications and court reports. When we interviewed or surveyed court practitioners, we assured them that their responses would not be identified with them. With approval from the Institutional Review Board at the University of Michigan, we carefully developed and implemented procedures that maintained confidentiality of individual

⁸ High: $\geq 25\%$; Medium: 15-24.9%; Low: $\leq 14.9\%$

⁹ This was an assessment made at the start of the project by research staff based on information from others. In some cases these assessments were revised after the site visits.

respondents.¹⁰ Thus, in some analyses, for example among the responses of judges or prosecutors, we aggregate the responses from all the courts when their identity might be deduced. We also assured participants that courts and counties would not be identified directly in publications.¹¹

The first site visits were made to units of state government involved with the court such as the agencies where juveniles were committed or which exercised oversight of the juvenile courts. Visits usually lasted two days and had the following four foci:

- Gathering information about state and court level policy and practices regarding processing and placements.
- Identifying data sets and reports from state agencies about processing decisions such as filings, detention, waivers/transfers to adult courts, commitments, and disproportionate processing of minority youth.
- Collecting information about court structure and staff.
- Assembling information about the state's structure for delinquency processing and services, including names of other local stakeholders for delinquency processing and services.¹²

Project researchers interviewed state agency executives and staff involved with all aspects of juvenile court decision making. Following an interview guide, interviews concerned such things as commitments to out-of-home placements, grants to the state from federal sources (such as Juvenile Accountability Incentive Block (JAIB) grants), juvenile codes, oversight of court by state court administrators, appellate decisions, and state-wide policies and initiatives on juvenile justice. State level data were also obtained from reports, files, interviews, and follow-up phone calls. Project researchers also visited programs, institutions, and screening and diagnostic units that were involved in dispositional decision making.

Using data gathered from state site visits, the research team refined the selection process for the courts and counties. Once courts were tentatively selected, chief judges at each of the selected courts were contacted to determine their willingness to participate in the study. In some cases, repeated contacts and exchanges of information were necessary to complete data collection. The second set of site

¹⁰ When we gathered non-public data that could be attributed to individuals we gave assurances of confidentiality since the goal of the research was to assess organizational and structural, not individual, functioning

¹¹ We have identified states because the analysis of their juvenile codes would not be feasible otherwise. Therefore, confidentiality for courts as organizations cannot be assured. Knowledgeable readers may deduce the identity of courts and counties from their characteristics. The purpose of this research, however, was not to assess the effectiveness of individual courts or single them out for criticism or change.

¹² These may include members of the three branches of state government (legislators, administrative and courts) at various levels (state, county, local municipality).

visits was to each of the selected courts. For courts that had readily agreed to participate after telephone contact, the first court site visit included intensive data collection. For more reticent courts the first site visit combined information gathering and further discussion with court authorities to gain their consent to participate. In several courts, surveys were not distributed on the first visit but were mailed and distributed by the court¹³ We found, however, that in-person distribution of questionnaires was more effective in securing higher response rates.

In all courts two to three site visits were conducted. A large number of staff were interviewed, including judges, probation staff, prosecutors, public defenders and appointed attorneys, and court administrators. We emphasized that our research was not evaluative, but rather focused on gaining greater understanding of court decision making generally and of structured decision making in particular. More than one site visit enabled project researchers to clarify impressions and update changes in the court. In many courts, the focus of the second visit was decision making at detention and waiver. Surveys of detention administrators were prepared after the first site visit in order to gain more information.

Data about decision making in courts were gathered from the following three types of data: existing files and reports, interviews and surveys. Data from files and reports varied by their accessibility and comparability. Other data were not comparable across jurisdictions. Data that were both easily accessible and comparable included U.S. Census data, *Kids Count*, UCR crime data, state reports, newspaper accounts, juvenile codes and appellate court decisions. Some documents were not publicly available but were available on request; these included written state and court procedures, court reports on case processing, and memos. We also pursued case data from computer information systems.

Files and reports were collected in numerous places and forms. Some public data were available only as texts, some were available on the internet, and others were available on CD-ROM files. Some internet files, such as crime and census data, were available in digital format and were easily recompiled and analyzed. Case data were sometimes summarized and only occasionally available in digital form.

Access to court-specific information was limited,¹⁴ and it was rarely uniform, making comparisons among courts difficult. In some courts, data were carefully filtered, and we were refused some data outright. In other courts, available data were given without reservation. Access to information by the court itself was limited in some courts by the adequacy and extent of automated information

¹³ Procedures ensured the confidentiality of the surveys so they could be sent directly to the research project.

¹⁴ Our access to court data was limited in a number of ways. First, computer information systems are still relatively rare. Second, the resources allocated to information systems were limited. Third, access to data management experts was difficult; e.g. sometimes they were not located at the court. Furthermore, they seemed reluctant and resistant about their authority to release case data to an outsider, even though the judge authorized it.

systems. All courts collected data about case processing, usually required by the state court administrator. In some courts, automated systems produced confusing and apparently contradictory reports, sometimes with internal inconsistencies. Even when different courts used similar computerized information systems, staff at one court would produce very different reports than those at others.

Surveys

In order to gain insight into decision maker views of general issues in juvenile justice administration, the accountability ideal, structured decision making and risk assessment, and other information relevant to case processing, we surveyed probation officers, judges and referees, prosecutors, and defense attorneys in each of these twelve courts. These groups were chosen because they all play important, yet different, roles in case processing and could provide a variety of perspectives on juvenile court administration. The survey was developed based upon previous surveys of juvenile court decision makers and structured decision making and were modified to fit our current study.¹⁵ Each survey contained a core set of questions regarding juvenile justice administration, but modifications relevant to particular decision makers were made.¹⁶ (See Appendix C.A and C.B for copies of the judicial and prosecutor survey). We pre-tested the survey in two counties and made further changes based upon these results.

The survey was self-administered in each of the courts. Respondents participated in the survey voluntarily and were given assurances about the confidentiality of their responses. The names of potential respondents were obtained through the assistance of court administrators and/or department heads. Our original sampling objective was to survey all decision makers in each of these groups directly involved in delinquency case processing. Where possible, we attempted to arrange mass meetings with respondents where we could administer surveys separately with each group. However, this proved logistically difficult in most courts so the survey was administered through court administrators or department heads.

Contacts through court administrators and department heads proved extremely helpful in conducting the surveying, particularly with regard to probation departments. They provided access to particular departments, helped to coordinate and administer the survey, and assisted in our follow-up. Participation of some decision makers, particularly prosecutors, was more difficult to obtain, but this

¹⁵ Other similar survey instruments that were consulted included that of Champion(1994) and Barton and Creekmore (1994)

¹⁶ The survey for probation officers and judges were similar, except for a set of four questions added to judicial surveys relevant to impacts on their discretion and decision making ability. Prosecutor and defense attorney surveys

varied across the courts. Consequently, survey response rates varied both by individual court and by category of decision maker within courts. The final data utilized in this analysis represents a non-random sample of approximately 1020 juvenile court decision makers, with an overall response rate of sixty-five percent ($N = 665$).

Our sample had an almost even number of women (49%) and men (51%). The mean age was about 39 years old with the majority of the sample between 29 and 49 years old. The average level of experience was 8.5 years but the range was broad, from 8 months to 16 years. The majority of respondents were married (56%) and had children (57%). Most worked as probation officers (74.9%), while a much smaller percentage of our sample were judges (12.6%), prosecutors (4.4%), and defense attorneys (8.2%). The majority of the sample (66%) indicated their race as white/Caucasian and 23% as black/African American. Very few respondents indicated other racial backgrounds.

It should be noted that a considerable portion of respondents (15%) declined to indicate their racial background, a decision which may have been based on oversight, concern about anonymity, or perhaps opposition to the researchers making race-based attributions. Additionally, a smaller number of respondents did not indicate their age, experience, parental status, or gender. This missing information on demographic characteristics had important consequences for our analysis of individual level differences, generally requiring that some findings be interpreted with caution. Also, the inclusion of these variables in our multivariate models (Chapter 10) significantly reduces the sample size in our analyses of these models. These issues will be considered further in our discussion of findings.

ANALYSIS PLAN

Variations in the availability of data and courts required adjustment of the initial proposal during the early months of the research. The largest revision from the original proposal concerned the shift from a focus on risk assessment instruments to a broader focus on the ways that decision making in juvenile courts was structured. This shift occurred because of the variation among courts and state agencies in the use of formal risk assessment techniques. The analysis plan (to uncover the ways that decision making in juvenile courts was structured) required flexibility, because the availability of data from courts and states varied. Consequently the basic decision patterns could not be easily uncovered in all courts or states. For some decisions, the statutory jurisdiction of the court changed making it impossible to follow juveniles when they entered the adult system.

were similar, and differed from probation and judicial surveys with regard to structured decision making and

REPORT

The analysis of these data has been organized into the following eleven chapters:

1. *The juvenile court in historical context.* This chapter presents a brief history of the development of the juvenile court in the past century, highlighting some of the key changes that have occurred in goals and decision making.

2. *Methodology.* This chapter summarizes the methodology employed in this study of courts in four states and includes demographic characteristics of the states and structural characteristics of the courts.

3. *Juvenile codes.* Juvenile codes in the four sample states are analyzed in depth, addressing the following three substantive issues related to decision making in juvenile courts: waiver/transfer mechanisms; sentencing/dispositions and correctional programming; and records and hearings. This chapter analyzes how juvenile codes have affected decision making in the juvenile court over time to determine the trends in each state and how closely they follow national patterns.

4-7. *The court in the community: Contextualizing the administration of juvenile justice.* The three courts in each state studied will be examined in detail through an analysis of qualitative (interviews, reports, news accounts) and quantitative (census, court reports and case) data. We identified four aspects of courts that influenced decision making: legislation, appellate decisions, and court rules; resources, funding, and services; court organization and oversight; and court cultures and roles.¹⁷

8. *Structured decision making.* This chapter documents the relationship of structured decision making (SDM) to issues of case processing and accountability. The historical development of SDM and its prevalence in court systems are discussed. The problems of implementing SDM are examined using the research literature. Four varieties are examined: risk assessment, needs assessment, security level classification and probation management. Interview and survey data regarding implementation of SDM from the four sample states are examined.

9. *Accountability.* This chapter documents the ascendance of the accountability ideal over the other goals for the juvenile court. Research and historical data are used primarily. At the level of

petition/waiver factors.

¹⁷ See Appendix B for a more detailed explanation of each of these areas.

individual courts, we analyze the juvenile codes, interviews and the survey data gathered from court practitioners to determine the context for and attitudes and perceptions about accountability.

10. *Behavior and perspectives of decision makers.* We present results from the analysis of the survey responses by type of practitioner. Four types of respondents to our surveys – judges, prosecuting attorneys, defense attorneys and probation officers – are compared on their attitudes toward and perceptions of the goals of the juvenile court. We also compare justice orientations by characteristics such as age, gender, race, job experience, and education. Finally, we perform multivariate analyses of justice orientations and definitions of accountability using individual, thematic, and contextual variables to further explore their relationships.

11. *Summary and recommendations.* The final chapter briefly summarizes the research findings. We conclude with several recommendations regarding structured decision making and court decision making processes and outcomes. We recognize the limitations of our research due to availability of data, the nature of the sample, the incompleteness of information, and the fact that juvenile courts are in a period of profound change still in process.

CHAPTER 3

THE CHANGING LEGAL CONTEXT OF THE JUVENILE COURT

This chapter analyzes juvenile code changes during the 1990s to assess how these changes have impacted decision making in the juvenile court. Juvenile codes set the jurisdiction and authority of the court and provide the basic structure for case processing. They define the mission of the court, as well as specify the roles of practitioners in case processing. Although many additional factors affect case processing, juvenile codes provide an important starting point for understanding juvenile court decision making because of the role they play in structuring decision making and the operation of the court.

Torbet et al. (1996; 1998) have documented the wide-ranging and substantial changes in juvenile codes during the 1990s. Several authors have commented on the meaning of these changes for the juvenile court. Feld (1999) argues that legislative codes have helped to transform, but not reform, the juvenile court. Zimring (1998) suggests that these code changes have not diminished the power of the court, but, instead, have re-oriented its mission. This analysis examines the types and magnitude of changes at the federal and state level to understand whether and how code changes have impacted decision making in the juvenile court. Specifically, it attempts to understand how codes and code changes impact the juvenile court and the meanings they transmit about the mission of the court.

The first section focuses on recent federal legislation that has affected states either indirectly through changing models for juvenile justice or directly through funding provisions. The second section takes a broad look at the national context of juvenile code changes. This section summarizes the findings of previous research on code changes and identifies key areas of change documented by these findings. The final section takes an in-depth look at code changes in the four states included in our study. The purpose of this section is to examine in greater detail how juvenile codes and code changes impact juvenile court decision making and the mission of juvenile justice. The examination places particular emphasis on code changes that affect the jurisdiction of the court, disposition power of judges, processing of cases, and access to records and proceedings by the public. Survey data on judges' attitudes toward code changes and opinions about their effect on decision making is analyzed to describe how judges respond to these changes.

METHODOLOGY

The methodology for this chapter includes several components. First, federal juvenile justice

provisions and appropriations were reviewed to present the overall federal framework for juvenile justice. General information was obtained on federal mandates, funding structures, and the specific provisions used to govern juvenile justice in the federal courts. This information is presented in summary form to provide an overall picture of the role of the federal government in juvenile justice.¹ Second, materials detailing changes in state legislation were identified and reviewed to broadly specify the degree of change occurring in states. These materials provide an excellent framework for understanding the national context of juvenile code changes, as well as relevant categories to use to examine code changes in the four states included in our study. Again, this information is presented in summary form to indicate the degree and type of change occurring throughout the country.

Third, juvenile codes were obtained for the four states in our study – Michigan, Ohio, Indiana, and Illinois. Categories of code changes were created based on previous studies of juvenile codes, as well as on issues relevant to our current study. These categories include the purpose clauses of each state's code, jurisdiction, dispositions, court processing, and records. The juvenile codes were analyzed to provide summaries of their provisions. The codes were then used to identify years of legislative change. The 1990s were selected as the time period for the analysis, but significant provisions from the 1980s are also included in particular instances. Using annotated codes to identify times points of change, individual state bills and codes were obtained and analyzed to determine the nature and extent of the change. Secondary materials concerning the juvenile codes were also obtained where available.² This material is used to provide further information pertaining to the code changes and perception of the codes. The code changes are presented in detail to identify the language used, the extent of the change, and the meaning of the change. Tables identify key items that are described in the narrative. The individual states are compared to provide a discussion of how codes structure decision making and the mission of juvenile justice in these four states.

The state section also includes the presentation of survey data from these four states concerning code changes and factors affecting juvenile court judges' decision making.³ This data is provided to give insight into how judges perceive code changes and other restrictions on their ability to make effective decisions. The final section draws conclusions regarding the meaning and impact of code changes on juvenile courts. Overall, the purpose of this chapter is to use available information on juvenile code

¹ The federal government plays a substantial role in the research, development, and funding of juvenile justice programs. Much of this information is beyond the scope of this chapter, but it is important not to minimize the role of the federal government. Chapter 9 provides further explanation concerning the changing priorities of the federal role in juvenile justice.

² Secondary materials include law reviews, legislative documents, state documents, and research reports where available.

³ See Chapter 2 for a discussion of the survey and data.

changes to inform policy makers and practitioners about the nature and extent of these changes and the meanings that they have for juvenile court decision making.

FEDERAL LAW

Although the federal government does not operate a juvenile justice system and cannot directly influence state systems through legal structures, it still plays a significant role in juvenile justice policy. The Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974 represented an attempt by the federal government to become involved in juvenile justice practice. The JJJPA sought to identify national goals for juvenile justice and create a federal-state partnership for the implementation of these goals. Major provisions of JJJPA provided grants to states for the decriminalization of status offenders and the deinstitutionalization of minor offenders. It also provided grants that focused on prevention, diversion, and treatment. The Office of Juvenile Justice and Delinquency Prevention (OJJDP) was established to encourage the development of national standards and the establishment of research efforts focused on court practice. Furthermore, JJJPA recognized rehabilitation as a primary goal of the juvenile court.

Since its enactment, the JJJPA has provided an overall framework for the federal role in juvenile justice administration and has been reauthorized several times since 1974. Subsequent reauthorizations have included additional mandates or initiatives at the federal level. Examples of these mandates include the reduction of minority overrepresentation by the court and in juvenile correctional facilities and continued focus on removing status offenders from secure facilities. Although reauthorization of the JJJPA has been a site of contestation over the direction and philosophy of the federal role in juvenile justice, it continues to provide much leadership to the juvenile court and justice system.

Despite these initiatives and mandates focused on system reform and rehabilitation, the role of the federal government in juvenile justice policy has increasingly moved away from rehabilitation and toward principles of responsibility and accountability.⁴ Several bills were introduced in the 105th Congress that lowered the minimum age eligible for transfer to the criminal court, expanded the range of offenses for transfer, increased record keeping requirements and the sharing of information among law enforcement agencies, and sought to hold offenders responsible for their actions through the principles of accountability and accountability-based sanctions.⁵ Although not enacted into law, many of the principles of these bills were contained in the Accountability Block Grant Program implemented through appropriations (P.L. 105-119) and are consistent with many changes at the state level. Committee reports

⁴ For a thorough discussion of this shift, see Chapter 9.

⁵ H.R. 3 and S. 10.

highlighted increases in serious youth violence and the coming storm of juvenile “super-predators” as rationales for “get tough” policies. A bill introduced in the 106th Congress relaxed some of the language of the previous bills, but still maintains an overall focus on youth violence and notions of responsibility and accountability.⁶

As this brief discussion shows, the federal government has played a substantial, yet shifting role in juvenile justice policy and practice. This role is important to note because it provides an overall framework from which to begin to understand changes at the state level. Juvenile justice policy and practice largely occur at the state and local level, but are also influenced in part by federal initiatives, mandates, programs, research efforts, and, most of all, funding.

STATE LAW

The primary sources of law governing the operation of the juvenile court are state juvenile codes. State legislatures maintain the authority to enact laws affecting the jurisdiction, structure, funding, and operation of the juvenile court and juvenile justice system. This authority operates in several ways. First, it can directly impact decision making by setting the jurisdiction of the court, delineating the decision-making process, basing decision-making outcomes on specific criteria, and allocating resources to different parts of the system. Second, it can impact decision making by giving decision-making authority to different actors in the system. Finally, it can structure decision making by impacting practices within courts, or, in responding to practices, legislation can formally implement these practices into courts. Although juvenile codes are enacted at the state level, and, thus, theoretically apply uniformly across all courts, provisions are sometimes directed at a particular county or are practiced differently in certain counties, creating variation in their impact.

As discussed in Chapter 1, the juvenile court has long held substantial discretion to make decisions regarding the processing of youth. Traditionally, this discretion existed under the “best interests of the child” mandate, requiring juvenile courts to act within a particular child’s best interest when making decisions. Discretion allowed the juvenile court to assess what each particular child required and to fashion a disposition to meet each child’s needs, providing a great deal of power to individual practitioners. One primary limit to juvenile court discretion concerned the range of placements and services available to the court.

Attempts to limit juvenile court discretion have come in the form of judicial, legislative, and administrative decisions. These attempts seek to formalize or structure the decision-making process of the court. Judicial decisions have restricted discretion by increasing the formality of the system through

⁶ S. 254.

the extension of due process rights.⁷ Administrative decisions restrict discretion through the range of available placements and services available to decision makers, and through policies and procedures, such as the use of risk assessment instruments, impacting the processing of cases.⁸

Similarly, legislative changes have restricted juvenile court discretion by imposing more structured or formal decision making policies regarding the jurisdiction, sentencing, and programming of youth. Furthermore, legislative changes have placed decision-making responsibility in the hands of different actors in the system, mainly prosecutors, thereby limiting the authority of judges and probation officers to make decisions. This section assesses the degree of these code changes nationwide. Specifically, it reviews studies of code changes and considers four basic areas of code changes – jurisdiction, dispositions, placements, and public access to records and proceedings – in order to assess the degree of these changes and their impact on decision making and the mission of the court.

Jurisdiction

The invention of the juvenile court provided exclusive jurisdiction over children, primarily under the age of 18, for criminal and some non-criminal offenses. Code provisions that allow waiver or transfer to the adult criminal court operate as the main exception to the court's exclusive jurisdiction over children. According to Tannenhaus (2000), transfer mechanisms have always been a part of the juvenile court. These mechanisms served to remove select cases from the juvenile court under the rationale that certain youth were not treatable and that they posed a threat to the philosophy and mission of the court (Tannenhaus, 2000). Prior to *Kent v. United States*,⁹ these mechanisms either operated actively, with juvenile court judges sending a case to the criminal court, or passively, with the juvenile court looking the other way when a case was filed in the criminal court. The *Kent* decision sought to standardize the transfer process by requiring a judicial hearing and setting criteria that should be considered in the transfer decision if statutory criteria did not already exist. This transfer mechanism is commonly referred to as **judicial discretionary waiver** because it provides the judge with the discretion to make the transfer decision based on the stated criteria.

Variations of the standard judicial discretion transfer mechanism include **mandatory judicial transfer** and **presumptive judicial transfer**. Mandatory judicial transfer requires a judge to transfer a youth if certain criteria are met. The judge does not make the transfer decision, but only certifies whether the criteria have been met. Presumptive judicial transfer shifts the burden from the prosecution to justify

⁷ See Chapter 1 for a discussion of major Supreme Court cases affecting the juvenile court.

⁸ See Chapters 4-7 for a discussion of factors affecting the administration of juvenile justice. See also Chapter 8 for a discussion of risk assessment and structured decision making in juvenile courts.

⁹ 383 U.S. 541 (1966).

the transfer to the defense to justify why the transfer should not be made. Both of these variations still require a judicial hearing comporting with due process standards.

States are able to get around the requirement of a judicial hearing, however, by implementing alternative transfer mechanisms. The two most common of these mechanisms are **statutory exclusion** and **prosecutorial direct file**. Statutory exclusion allows the legislature to exclude juveniles from the court's jurisdiction by age, offense, and/or other characteristics. These mechanisms operate by lowering the upper age of juvenile court jurisdiction or excluding juveniles based upon specific age and offense criteria. Prosecutorial direct file mechanisms allow prosecutors to choose to directly file a case in the adult criminal court based upon age and offense criteria in the legislation. Direct file mechanisms may or may not include other criteria, thereby placing a substantial amount of discretion in the hands of prosecutors.

During the 1990s, a primary emphasis of juvenile code changes was on expanding or adding transfer mechanisms. Between 1992 and 1997, 44 states and the District of Columbia enacted at least one law modifying or adding transfer mechanisms¹⁰ (Torbet et. al., 1996; Torbet & Szymanski, 1998). Through the expansion and addition of transfer mechanisms, states lowered the minimum age for transfer, expanded the number of eligible offenses for transfer, changed the criteria included in the transfer decision, and shifted the transfer decision responsibility from judges to prosecutors and legislators. Whereas the juvenile court previously maintained exclusive jurisdiction over children except in certain cases, recent code changes remove larger classes of cases from the court and increase the severity of consequences for offending behavior. By limiting or allowing other parties to determine who is within the court's jurisdiction, legislatures are challenging the ability of the juvenile court to appropriately handle certain classes of cases and the ability of the court to make determinations over who should be within its jurisdiction.

Judicial Discretionary Waiver. Nationwide, 45 states and the District of Columbia currently utilize judicial discretion as a waiver mechanism.¹¹ During the period of 1992-1997, 14 states lowered age limits,¹² 17 states added crimes,¹³ and 6 states added or modified prior record provisions to their

¹⁰ AL, AK, AR, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IA, IL, IN, KS, KY, LA, MD, MA, MN, MS, MO, MT, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY (Torbet et. al., 1996; Torbet & Szymanski, 1998).

¹¹ AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MA, MD, MI, MN, MI, MO, MT, NV, NH, NJ, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY (Griffin et al., 1998).

¹² CO, DE, HI, ID, MO, NV, NC, OH, OR, TN, TX, VA (twice), WV, WI (Torbet et. al., 1996; Torbet & Szymanski, 1998).

¹³ AK, AR, CA, DE, KY, LA, MO, MT, NV, NC, OH, OR, RI, SC, TN, UT, WA (Torbet et. al., 1996; Torbet & Szymanski, 1998).

discretionary judicial waiver provisions.¹⁴ Connecticut and Massachusetts removed their judicial discretion waiver provision in 1995 and 1996 respectively (Torbet et al., 1996; Griffin et al., 1998). The minimum age for discretionary transfer ranges from 10 years old to 16 years old depending upon the offense, with several states not specifying a minimum age. (Griffin et al., 1998). These changes signify a clear attempt to allow judges to transfer children at younger ages, for more offenses, and considering more offense-based criteria.

Mandatory and Presumptive Judicial Waiver. States employing mandatory judicial waiver provisions did not make as substantial changes to these provisions from 1992-1997 as with judicial discretionary provisions. Currently, 14 states utilize mandatory judicial discretion provisions and the minimum age for these provisions ranges from 13 years old to 16 years old.¹⁵ However, among the 14 states and the District of Columbia that employ presumptive judicial transfer mechanisms,¹⁶ 11 of these states enacted these mechanisms during the period of 1992-1997.¹⁷ The minimum age for presumptive transfer ranges from 14 to 16 years old (Griffin et al., 1998). The enactment of presumptive judicial transfer provisions presumes that under certain circumstances a child is not fit to be dealt with by the juvenile court and shifts the burden to the defense to prove that the child is amenable to treatment.

Statutory Exclusion. Statutory exclusion is used by 28 states to transfer youth to the adult criminal court.¹⁸ Although only 2 states enacted statutory exclusion provisions from 1992-1997,¹⁹ 27 states added crimes to their exclusion statutes²⁰ and 7 states lowered minimum age limits.²¹ Several states do not specify a minimum age, but the minimum age for those who do ranges from 13 to 17 years. The prevalence of statutory exclusion provisions exhibits a desire on behalf of legislatures to mandate exclusion of certain children from the juvenile court altogether. Under these provisions, the legislature and prosecutor hold the discretion to make the transfer decision by the criteria set in the legislation and the decision to file a specific charge. The age and offense classifications in these provisions themselves determine who is fit to be tried as an adult. The lowering of age classifications and expansion of offense categories represents an increased trend to view the juvenile court as inappropriate for increasing numbers of youth.

¹⁴ AK, CO, FL, HI, IN, KY (Torbet et al., 1996; Torbet & Szymanski, 1998).

¹⁵ CT, DE, GA, IL, IN, KY, LA, NC, ND, OH, RI, SC, VA, WV (Griffin et al., 1998).

¹⁶ AK, AZ, CA, CO, DC, IL, KS, MN, NV, NH, NJ, ND, PA, RI, UT (Griffin et al., 1998).

¹⁷ AK, CA, CO, DC, IL, KS, MN, ND, PA, UT, WV (Torbet et al., 1996; Torbet & Szymanski, 1998).

¹⁸ AL, AK, AZ, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MI, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI (Griffin et al., 1998).

¹⁹ AZ, MA (Torbet et al., 1996; Torbet & Szymanski, 1998).

²⁰ AL, AK, CT, DE, GA, ID, IA, IL, IN, KS, KY, MD, MN, MS, NV, NH, NM, ND, OK, OR, PA, RI, SC, SD, UT, WA, WV (Torbet et al., 1996; Torbet & Szymanski, 1998).

²¹ DE, MS, NV, OK, OR, SC, WI (Torbet et al., 1996; Torbet & Szymanski, 1998).

Prosecutorial Direct File. The remaining mechanism, prosecutorial direct file, is used by 14 states and the District of Columbia.²² Between 1992 and 1997, 11 states enacted or modified these provisions.²³ As this indicates, prosecutorial direct file is becoming an increasingly popular transfer mechanism. In *United States v. Bland*,²⁴ the Supreme Court held that prosecutorial direct file provisions did not violate due process requirements because the prosecutor's office has traditionally held the power to determine charge and venue. In addition to removing discretion from judges, prosecutorial direct file serves to increase the power of the prosecutor in the juvenile court. Prosecutorial direct file also raises equal protection questions because these provisions are often without guidelines or standards, leaving the entire decision in the hands of the prosecutor and creating the potential for decisions to be made based upon extra-legal characteristics.

Dispositions/Sentencing

A second area of legislative attention involves dispositions or sentencing. Traditionally in the juvenile court, sentences have been referred to as dispositions to note the civil and treatment orientation of the court. However, legislation is increasingly shifting the language from dispositions to sentences, particularly blended sentencing statutes. In this section, dispositions and sentences are used to denote the sanctions applied by the juvenile court after adjudication or trial.

With regard to dispositions, the basic philosophy of the juvenile court centered on indeterminate sentences based upon the needs of the youth and available services of the system. Trends in recent dispositional legislation indicate a change to a more offense-based punitive philosophy. This philosophical change has resulted in the imposition of blended sentencing statutes, increased use of mandatory minimum and determinate sentencing practices, and the extension of juvenile court jurisdiction past the age of majority.

Blended sentencing. These statutes impose a juvenile and/or criminal sentence upon a youth adjudicated in juvenile court or convicted in adult court. Variation exists across states regarding the specific blend of sentences, but blended sentencing essentially serves to extend the available dispositional or sentencing alternatives that may be assigned to particular youth. Blended sentencing provisions are based on the philosophy that the availability of a juvenile sentence alone is not sufficient to provide appropriate punishment for some youth. Instead, judges must be allowed to consider sentencing options that include imposing either a juvenile or adult sentence, a juvenile and adult sentence, or a sentence that

²² AZ, AR, CO, DC, FL, GA, LA, MA, MI, MT, NE, OK, VT, VA, WY (Griffin et al., 1998).

²³ AR, AZ, CO, FL, GA, LA, MA, MT, OK, UT, WY (Torbet et al., 1996; Torbet & Szymanski, 1998).

²⁴ 472 F.2d 1329 (D.C. Cir. 1972), *cert. denied*, 412 U.S. 909 (1973).

extends beyond the age of juvenile majority, but includes procedures to end the sentence at various points if sufficient "progress" is being made. These sentencing options can be available to either the juvenile or criminal court, depending on the statute, and provide more tools to deal with particular youthful offenders. At the end of 1995, 17 states used blended sentencing schemes,²⁵ while five states modified or enacted blended sentencing provisions during 1996 and 1997.²⁶

Mandatory minimum and determinate sentencing. These provisions enact specific sentence requirements to youth meeting the criteria in these statutes. These provisions can remove some discretion from judges by determining either the minimum disposition a judge can impose or specifically determining the disposition the judge must impose. Thus, the discretion of the judge is substituted by that of the legislature in these circumstances. However, they may also expand the power of judges by allowing them to impose specific sentence lengths upon some youth. Between 1992-1997, 15 states and the District of Columbia enacted or modified mandatory minimum or determinate sentencing provisions.²⁷

Extended jurisdiction. These provisions allow the juvenile court to extend its jurisdiction over a youth past the age eighteen or the particular age of majority in each state. Many jurisdictions allow juvenile courts to exercise jurisdiction until age twenty-one, but some extend to age 25 or an indefinite period. Between 1992-1997, fifteen states and the District of Columbia enacted provisions extending the age of jurisdiction.²⁸

Correctional Programming

Changes in correctional programming are difficult to document because of the closed nature of correctional institutions and the limited role of legislation in mandating correctional programs and activities. However, increases in the number of juveniles tried as adults, increases in legislatively defined sentence lengths, and increasing juvenile incarceration rates have placed substantial pressures on existing correctional facilities. These pressures require correctional systems to seek new methods for dealing with juvenile offenders.

Torbet, et. al. (1996) identify the following five basic responses by correctional systems: straight adult incarceration, graduated incarceration, segregated incarceration, youthful offenders, and "back to the basics."

²⁵ AR, CA, CO, CT, FL, ID, MA, MI, MN, MO, MT, NM, RI, SC, TX, VA, WV (Torbet et. al., 1996; Torbet & Szymanski, 1998).

²⁶ IA, KS, OK, MA, VA (Torbet & Szymanski, 1998).

²⁷ AZ, CO, CT, DC, GA, ID, IN, KA, MA, MO, NJ, OH, OR, TX, VA, WI (Torbet et. al., 1996; Torbet & Szymanski, 1998).

²⁸ AR, CT, DE, DC, FL, GA, IL, KS, KY, MN, MO, MT, NH, NM, OH, TN (Torbet et. al., 1996; Torbet & Szymanski, 1998).

- **Straight adult incarceration** places youth in adult correctional facilities with minimal programming differences from that offered adults.
- **Segregated incarceration** refers to housing youth in separate facilities for younger adults and offering occasional programming.
- **Graduated incarceration** places juveniles incarcerated as adults in juvenile or segregated adult facilities and moves them to adult facilities when they reach a certain age.
- **Youthful offender status** provides special juvenile protections and may result in special programming for the youth.
- **“Back to the basics”** correctional programming focuses on the traditional rehabilitative model through the provision of specific services, programs, and sanctions that are graduated as severity of offending increases.

Numerous states have adopted one or more of these strategies for dealing with the increases in youth populations in their systems. One result of these programming responses is the need to construct and/or expand secure facilities. Another response, however, has been the development of community-based interventions focusing on holding youth accountable through supervision “within a framework of public safety and accountability” (Torbet & Szymanski, 1998).

Records and Hearings

Traditionally, access to juvenile records and court proceedings is closed to the public to protect the identity of the delinquent and to reduce the stigma attached to the delinquent act. This protection also covers the use of juvenile court records in any subsequent criminal court proceeding, providing the offender with protection from youthful transgressions. Confidentiality also allows the juvenile judge to develop dispositions without scrutiny from the public, victims, or other parties. The current trend, however, is to provide increased access to juvenile court proceedings and records for various offense and/or age classifications and to provide this access to a range of individuals, including law enforcement, social agencies, schools, the victim, prosecutors, and the general public. These provisions have allowed access to juvenile hearings, the release/publication of the juveniles’ names, disclosure and use of juvenile records, and information-sharing relationships between juvenile courts, law enforcement, schools, and other agencies.

Between 1992 and 1997, 20 states have either enacted or modified legislation permitting access to juvenile proceedings generally or for violent or repeat offenders.²⁹ At the end of 1997, 30 states provided at least some public access for juvenile proceedings.³⁰ Furthermore, 42 states permitted publication of the juvenile's name, address, and/or a picture to the media or general public under certain conditions.³¹ Provisions regarding access to juvenile records are experiencing a similar trend. These provisions provide disclosure of information and access to records to social agencies, schools, law enforcement, interested parties and the general public. During the period of 1992-97, 40 states modified or enacted provisions easing requirements for access to records or requiring disclosure to particular parties.³² At the end of 1997, 48 states allowed information to be accessed by various parties.³³

Another area of active code change includes the collection and/or sharing of information regarding juveniles. In particular, legislation creating central repositories for juvenile records and allowing photographing and/or fingerprinting has been enacted in nearly every state.³⁴ Between 1992 and 1997, 15 states modified or added provisions allowing juvenile records to be used in criminal court proceedings.³⁵ In 39 states, youthful sex offenders are currently required to register under sexual offender statutes.³⁶

National Summary

The primary purpose of examining juvenile code changes is to understand the current legal structure governing the juvenile court and to assess what the nature and impact of code changes tell us about this structure. As is evident, change in the 1990s was widespread, frequent, and quite substantive. Almost every state enacted at least one legislative provision pertaining to the juvenile court during the

²⁹ AK, CA, DE, FL, GA, HI, ID, IN, KS, LA, MA, MD, MN, MO, NV, PA, SD, TX, UT, VA (Torbet et. al., 1996; Torbet & Szymanski, 1998).

³⁰ AK, AZ, CA, CO, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MO, MT, NV, NM, OK, PA, SD, TX, UT, VA, WA, WI (Torbet & Szymanski, 1998).

³¹ AK, AZ, AR, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MA, MI, MN, MI, MO, MT, NE, NV, NH, NJ, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY (Torbet & Szymanski, 1998).

³² AL, AK, AR, AZ, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MT, NV, NJ, ND, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI, WY (Torbet et. al., 1996; Torbet & Szymanski, 1998).

³³ AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY (Torbet & Szymanski, 1998).

³⁴ CT, DC, MS, NH, NC, VT, WV do not provide for a state repository; ME, NH, SC, WI do not allow fingerprinting; and, ME, NE, RI, WV, WI do not allow photographing of juveniles (Torbet & Szymanski, 1998).

³⁵ AZ, CA, CT, FL, GA, IA, KY, LA, OH, OK, OR, PA, TN, TX, WA (Torbet et. al., 1996; Torbet & Szymanski, 1998).

³⁶ AL, AK, AZ, AR, CA, CO, DE, FL, HI, ID, IL, IN, IA, KS, LA, ME, MA, MI, MN, MS, MT, NV, NH, NJ, NM, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WI, WY (Torbet & Szymanski, 1998).

period of 1992-1997 alone. Numerous states enacted a variety of provisions across the areas of transfer, sentencing/dispositions, programming, and records. Examined in their totality, it is clear that these changes have a dramatic impact on the mission and operation of the juvenile court.

Given the degree and magnitude of these changes, an important next step is to assess their impact on the juvenile court as an institution. While the national picture presented gives us a good base to provide this assessment, it does not provide the necessary detail to fully examine the impact of code changes. The next section looks specifically at juvenile code changes in four states. This analysis ties together the specific changes across these areas in order to paint a more thorough picture of how code changes impact the juvenile court. Additionally, it presents data detailing how judges in these states view the impact of code changes. Through this analysis, a more detailed picture of code changes is constructed.

FOUR-STATE ANALYSIS

Michigan

Michigan has enacted several major reforms to its juvenile justice system. One reform produced changes in waiver mechanisms in the late 1980s. These changes largely remained in effect until 1996, when Michigan enacted a number of legislative changes affecting jurisdiction, sentencing, court organization, and other aspects of the juvenile justice system. Both the legislative and executive branches exhibited strong support for these changes based on the belief that increases in violent juvenile crime in the early 1990s required strong responses and a new set of tools for judges to deal with these offenders. Below we examine these changes in order to understand how they have impacted the juvenile court and juvenile justice policy in Michigan. Specifically, we examine jurisdiction, sentencing/dispositions, correctional programming, and records.

Jurisdiction and Waiver

In 1997, Michigan reorganized its court structure by removing the juvenile court from the Probate Court to the Family Division of the Circuit Court, moving its location to a court of higher jurisdiction.³⁷ The overall effect of this change is to move all family law related matters to one Family Division. Within the Family Division of the Circuit Court, the juvenile court has exclusive jurisdiction over any juvenile under the age of 17 who has violated any municipal ordinance, state law, or federal law, unless the youth

is waived in accordance with the relevant transfer provisions. This situates Michigan within the 13 states nationwide that end juvenile court jurisdiction prior to the age of 18. Jurisdiction over a youth, however, may continue two years past age 17 or until age 21 if the youth has committed a "specified"³⁸ juvenile offense. Additionally, the court maintains jurisdiction over any youth under the age of 18 who has deserted his/her home without sufficient cause, is disobedient to the reasonable and lawful claims of his/her parent, or willfully and repeatedly is absent from school or violates school rules.

Michigan allows youth to be transferred to the adult criminal court through prosecutorial and judicial waiver mechanisms. Prior to 1988, Michigan used "traditional" waiver mechanisms, or judicial waiver. This provision applied to all youth aged 15 and 16 charged with an act that would be a felony if committed by an adult. Judicial waiver required a finding of probable cause followed by a hearing to determine whether the youth should be tried as a child or adult. In the hearing, the judge had to consider several enumerated factors concerning the youth, the offense, public safety, and the amenability of rehabilitation.³⁹ The weight of each of these factors in the decision was accorded to the discretion of the judge. If transfer was granted, the youth was considered an adult for purposes concerning that offense, including sentencing, but was considered a juvenile for subsequent offenses if under age 17.

Under the judicial waiver provision, juvenile court judges maintained the discretion in making a waiver decision once a motion was filed by a prosecutor. However, Michigan enacted a prosecutorial discretion provision in 1988 allowing prosecutors to directly file in adult criminal court for youth aged 15 and 16 charged with committing a specified capital offense.⁴⁰ Referred to as "automatic" transfer, this provision gave prosecutors the discretion to determine the choice of forum for trying certain youth.⁴¹ If a youth waived to the adult system through this mechanism was found guilty of the offense, the adult court judge was required to hold a hearing to determine whether the youth should be sentenced as a juvenile or

³⁷ See Chapter 4 for a discussion of Michigan's juvenile court system.

³⁸ See note 43.

³⁹ Factors to be considered by the court in making the transfer decision included: the prior record and character of the child, the seriousness of the offense, whether the offense is part of a repetitive pattern that would lead the court to believe that the child is not amenable to treatment or despite the child's amenability to treatment, participation would disrupt services to others, whether the nature of the child's delinquency would render the child dangerous to society if released at the age of 19 to 21, whether it is more likely that the child will be rehabilitated in the adult system than the juvenile system, and whether it is in the best interests of the public for the child to stand trial as an adult. MCL 712A.4(1).

⁴⁰ Murder 1st and 2nd, attempted murder, assault with intent to commit murder, armed robbery, assault with intent to rob while armed, carjacking, 1st degree criminal sexual conduct, and major drug possession and delivery (over 650 grams).

⁴¹ *United States v. Bland*, 472 F.2d 1329 (D.C. Cir. 1972), cert. denied, 412 U.S. 909 (1973), did not require a hearing because this choice fell within the traditional discretion of prosecutors to choose both charges and the forum.

adult. The judge was then required to consider the same criteria mandated in judicial waiver proceedings in making this determination.⁴²

Despite the discretion provided to prosecutors in 1988, political pressure for further changes came from many sectors of the Michigan juvenile justice community. Responding to increases in youth violence, much of the pressure was focused on providing more mechanisms to deal with violent youth. Consequently, legislation was adopted in 1996 that further changed the waiver process in Michigan by modifying both the judicial and prosecutorial waiver mechanisms. Changes in the judicial waiver mechanism included lowering the minimum age limit from 15 to 14 years old and changing the applicable offenses to any act that would be a felony other than a "specified juvenile offense."⁴³ This change removed serious offenses from judicial consideration and, as will be described below, placed them at the discretion of prosecutors. However, it did increase the population of youth eligible for judicial waiver by lowering the minimum age for transfer. Thus the discretion of judges over serious offenses was limited, but their ability to transfer younger offenders was increased.

Another significant change in the 1996 legislation is the requirement that the court give greater weight to the seriousness of the offense and the juvenile's prior record of delinquency when making the decision. The 1996 legislation also limited the criteria to be considered in the transfer hearing to the seriousness of the offense (including issues such as protecting the public and any aggravating factors), the culpability of the juvenile in committing the offense, the juvenile's prior record and programming history, and the adequacy of punishment, programming, or other disposition options available for the juvenile. Table 1 compares the criteria judges must consider when making a transfer decision. In conjunction with the requirement of giving more weight to the seriousness of the offense and juvenile's prior record, this legislation shifted the waiver decision to more offense and/or prior offense information from a focus on the offender. Additionally, the legislation adopted a "once an adult, always an adult provision," which automatically transferred jurisdiction over a youth who had previously been transferred to the criminal court for any subsequent offense. The legislation changed the provision allowing judges to hold a hearing to determine whether an adult or juvenile sentence would be enacted to requiring that youth convicted through this mechanism to be sentenced as adults.

⁴² See note 39.

⁴³ Specified juvenile offenses are an expanded list of specified capital offenses included in note 40. They include 17 enumerated offenses divided into Type A and Type B offenses for the purpose of waiver mechanisms. Type A offenses include: arson of a dwelling, assault with intent to murder, assault with intent to maim, attempted murder, conspiracy to commit murder, solicitation to commit murder, murder 1st, murder 2nd, kidnapping, criminal sexual conduct 1st, armed robbery, and carjacking. Type B offenses include: assault with intent to rob (armed), assault with intent to GBH (armed), bank/safe robbery, escape from facility, home invasion 1st (armed), attempts, conspiracy, and solicitation to commit & lesser included offense of above, and drug possession (650 grams) and delivery (650 grams).

Table 3.1: Comparison of Criteria in the Transfer Decision

	Pre-1996 Legislation	Post-1996 Legislation
Offense	<ol style="list-style-type: none"> 1. Seriousness 2. Whether part of a repetitive pattern that would lead the court to believe that the child is not amenable to treatment 	<ol style="list-style-type: none"> 1. Seriousness⁴⁴ 2. Culpability 3. Aggravating Factors
Public	<ol style="list-style-type: none"> 1. Whether it is in the interest of the public for the child to be tried as an adult 2. Whether the nature of the child's delinquency would render the child dangerous to the public if released at the age of 19 or 21 	<ol style="list-style-type: none"> 1. Public Safety
Youth	<ol style="list-style-type: none"> 1. Prior record 2. Prior character 	<ol style="list-style-type: none"> 1. Prior Record 2. Programming History
System	<ol style="list-style-type: none"> 1. Whether child would disrupt services to others 2. Whether the child would more likely be rehabilitated in the adult or juvenile system 	<ol style="list-style-type: none"> 1. Adequacy of punishment, programming, or other disposition option

Changes in the prosecutorial waiver provision, however, were more profound. The 1996 legislation expanded prosecutorial transfer mechanisms, eliminated and reduced minimum age requirements for the different mechanisms, and further specified sentencing options for criminal court judges. The two mechanisms available for prosecutors now include the direct file provision and a prosecutorial designation mechanism. The prosecutorial direct file mechanism is similar to the 1988 enactment, but lowered the minimum age from 15 to 14 and expanded the list of offenses to include specified juvenile offenses. Another key change focuses on sentencing under this mechanism. Whereas the previous prosecutorial discretion provision required a hearing to determine whether a juvenile or adult sentence would be enacted, the 1996 legislation separated specified juvenile offenses into two types and linked sentencing to each type. Type A offenses⁴⁵ require a mandatory adult sentence upon conviction, and Type B offenses⁴⁶ require a hearing to determine whether to institute a juvenile or adult sentence.

The second mechanism, a prosecutorial designation provision, eliminated the minimum age for transfer, as well as expanding the offenses available for transfer. Under this provision, prosecutors may designate any act that is an offense if committed by an adult for transfer. If the offense is a specified juvenile violation, the case is automatically transferred to the adult criminal court. If the offense is not a specified juvenile offense, a hearing must be held and the court must designate for transfer. A family division trial is conducted as an adult trial, including the use of a jury. If the juvenile is convicted, he/she

⁴⁴ 1996 legislation required court to give greater weight to the seriousness of the offense, whereas previously the court maintained discretion to determine weight of each criteria.

⁴⁵ See note 43.

⁴⁶ See note 43.

Table 3.2: Michigan's Transfer Laws

	1988	1996
Waiver Mechanism	<ol style="list-style-type: none"> 1. Tradition Waiver (judicial) 2. Prosecutorial Direct File 	<ol style="list-style-type: none"> 1. Traditional Waiver (judicial) 2. Prosecutorial Direct File 3. Prosecutorial Designation
Minimum Age	<ol style="list-style-type: none"> 1. 15 years old 2. 15 years old 	<ol style="list-style-type: none"> 1. 14 years old 2. 14 years old 3. No minimum age
Offenses	<ol style="list-style-type: none"> 1. Felony 2. Capital Offense 	<ol style="list-style-type: none"> 1. Felony other than a specified juvenile offense 2. Specified juvenile offense 3. Any offense
Hearing	<ol style="list-style-type: none"> 1. Yes 2. No 	<ol style="list-style-type: none"> 1. Yes 2. No 3. If specified juvenile offense: no If other offense: yes
Factors	<ol style="list-style-type: none"> 1. Enumerated 2. None 	<ol style="list-style-type: none"> 1. Enumerated 2. None 3. If specified juvenile offense: none If other offense: enumerated
Sentence Options	<ol style="list-style-type: none"> 1. Adult or juvenile 2. Adult or Juvenile 	<ol style="list-style-type: none"> 1. Adult 2. Type A offenses: adult; Type B offenses adult and/or juvenile 3. Adult and/or juvenile

may be sentenced as an adult, a juvenile, or both through a blended sentence, where the juvenile disposition is imposed and an adult sentence is delayed to determine whether the youth responds to treatment in the juvenile system. This mechanism placed a great deal of discretion in the hands of the prosecutor and eliminated the minimum age for transfer.

Sentencing/Dispositions and Correctional Programming

As is evident above, juveniles transferred to the adult court may be sentenced as adults, juveniles, or as an adult/juvenile blend. This depends upon the transfer mechanism, offense, and/or discretion of the adult court judge, shifting the power away from the criminal court judge to decide the type of sentence. The juvenile court in Michigan, however, cannot impose a blended sentence. Additionally, the Michigan juvenile code does not provide mandatory minimum or determinate sentencing provisions in the juvenile court. Jurisdiction over a youth may be extended until age 19 or 21 depending on the offense.

Disposition options available to a juvenile judge include a warning, probation, commitment to a foster home, court supervision, placement in a private institution or agency, placement in a public agency, community service, fines, placement in a boot camp, a similar sentence to an adult who has committed the

same offense, or imprisonment. Judges must consider whether sufficient services are available within the county, or whether the youth should be sent to the Family Independence Agency (FIA), the state agency supervising juvenile facilities. FIA utilizes a system of public and private facilities operated by or contracted for the state. Placement in a state facility is typically for an indeterminate period.

When considering the disposition options, the court must weigh the seriousness of the offense, culpability of the juvenile in committing the offense, the juvenile's prior record (including school, police, and detention), the juvenile's past programming record, adequacy of the punishment or programming available in the juvenile system, and the dispositional options available to the court. The 1996 legislation included restitution as a dispositional alternative that the court shall order in addition to the other disposition options available under the law. Michigan's juvenile code does not constrain the ability of family court judges to impose a disposition through mandatory minimum or determinate sentencing provisions. However, it does mandate that judges focus on offense-related characteristics and the adequacy of disposition options, not on individual factors regarding the needs of the youth.

Records and Hearings

Michigan provides for open hearings, unless, upon a motion, the court determines that it is in the best interests of a party for the hearing to be closed. Michigan also allows for the release of the offender's name and court record in certain instances. Additionally, Michigan provides for a statewide repository of information through fingerprinting, photographing, and offender registration and prohibits the expunging of records.

Ohio

Similar to most states, Ohio made significant legislative changes to its juvenile code during the 1990s. Primarily, these changes affected sentencing provisions and waiver, including the addition of more mandatory minimum disposition requirements and the easing of waiver by lowering minimum age requirements and broadening the array of eligible offenses. In addition to juvenile code changes, the Ohio legislature passed a new system for funding juvenile justice activities in 1993 called "RECLAIM Ohio."⁴⁷ RECLAIM provides funding to county courts to develop programs and services and to keep counties from committing children to the state. This system gives local courts considerable discretion to determine how to utilize this money.

⁴⁷ "Reclaim Ohio" was enacted in 1993 and provides substantial funding to counties to implement juvenile justice programs at the local level.

Jurisdiction and Waiver

In Ohio, juvenile courts have exclusive jurisdiction over any child under the age of 18 who is alleged to be delinquent, unruly, abused, neglected, dependent, or a juvenile traffic offender, unless the child is transferred in accordance with the appropriate waiver provisions. Ohio does not use either prosecutorial discretion or statutory exclusion for waiver, but only uses judicial discretion and mandatory judicial waiver provisions.

Prior to 1996, the discretionary judicial waiver provision provided for transfer when the child was alleged to have committed an act that would be a *felony* if committed by an adult, was 15 years old at the time of the act, and probable cause existed to believe that the child committed the act. If these criteria were satisfied, the court had to perform an investigation, including a mental and physical examination, to consider whether the child was not amenable to care or rehabilitation in any facility designed for delinquent children and whether the safety of the community necessitated the child's restraint. Further, the court was required to consider whether the victim was over 65 years old or permanently disabled and whether the act was an offense of violence. These latter factors did not control the decision, but served as considerations in addition to the factors described above.

In 1996, the Ohio legislature modified its discretionary judicial waiver statute by lowering the minimum age for transfer to 14. Additionally, it required the court to consider whether the victim was 5 years old or younger, if the victim received a personal injury, whether the child possessed a firearm while committing the act, and if the child has a history indicating a failure to rehabilitate. These factors weighed toward the transfer of the child. This change increased the youth population eligible for transfer by decreasing the minimum age and adding other offense-related criteria to be considered in favor of waiving the youth. Arguably, these changes restrict the discretion of the juvenile court judge by transferring focus from characteristics of the youth to characteristics associated with the offense.

Ohio also modified its mandatory judicial waiver provisions during this period. Prior to 1996, mandatory judicial transfer only occurred when a child was alleged to have committed aggravated murder or murder and had previously committed aggravated murder or murder. This provision contained no other criteria and simply required the juvenile court to transfer the child when these factors were present. Beginning in 1996, however, the court must transfer youth at least 14 years old who have allegedly committed murder, aggravated murder, or attempt to commit murder or aggravated murder if the child had previously been placed in the Department of Youth Services for a category 1 or 2 offense.⁴⁸ The court must transfer any youth 16 and older who allegedly commits murder, aggravated murder, or attempt

to commit murder or aggravated murder if probable cause exists without reference to other criteria. The court must also transfer a youth 16 and older who allegedly commits voluntary manslaughter, involuntary manslaughter, rape, aggravated robbery, aggravated arson, and aggravated burglary if probable cause exists and one the following is present: (1) the child had a firearm at the time of the offense; or (2) the child was previously adjudicated delinquent and committed to DYS custody for a category 1 or 2 offense. Ohio also implemented a "once an adult, always an adult" provision mandating that once convicted in an adult court, the child was no longer a child for juvenile court purposes.

Sentencing/Dispositions

Ohio does not use blended sentencing for children tried in either the adult or juvenile court. However, the Ohio juvenile code does contain mandatory minimum sentence options for a range of offenses. Children adjudicated delinquent for murder or aggravated murder may be committed to the Department of Youth Services by the court until their 21st birthday. During the period of 1992-1995, the court could impose a minimum sentence of 6 months with a maximum not to exceed the youth's 21st birthday for aggravated felonies, or felonies of the third or fourth degree if committed by an adult. For aggravated felonies and felonies of the 1st and 2nd degree, the court could commit the child for one year with a maximum not to exceed the youth's 21st birthday. For drug offenses, the court could require the child to participate in a drug abuse or drug counseling program and/or suspend the youth's license or instruction permit.

Ohio made one significant change in its disposition provision in 1995 by adding the offense of purchasing or attempting to purchase a firearm to the mandatory minimum commitment provision. In 1996, however, the Ohio legislature added numerous further changes to its disposition provision. The court may now commit a child adjudicated delinquent for attempt to commit murder or aggravated murder for a minimum period of 6 to 7 years not to exceed the child's 21st birthday. Children adjudicated delinquent for voluntary manslaughter, kidnapping, arson, aggravated robbery, involuntary manslaughter while attempting to commit a felony, or rape could be committed to the Department of Youth Services for a 1 to 3 year period, with a maximum not to extend beyond the child's 21st birthday. If a child is committed to the Department of Youth Services for an act that would constitute a felony if committed by an adult, and the child possessed a firearm while carrying out the act, that child could be committed for the same time period as an adult convicted of the same offense, but for a maximum of three years.

⁴⁸ Category 1 offenses include murder, aggravated murder, and attempt to commit murder or aggravated murder. Category 2 offenses include voluntary manslaughter, involuntary manslaughter, kidnapping, rape, aggravated arson,

Table 3.3: Ohio's Waiver Laws

	Pre-1996	1996
Type of Waiver Mechanism	<ol style="list-style-type: none"> Judicial Discretion Mandatory Judicial 	<ol style="list-style-type: none"> Judicial Discretion Mandatory Judicial
Minimum Age	<ol style="list-style-type: none"> 15 years old No minimum specified 	<ol style="list-style-type: none"> 14 years old (a) 14 years old; (b) 16 years old
Offenses	<ol style="list-style-type: none"> <i>Felony</i> if committed by an adult Murder or aggravated murder 	<ol style="list-style-type: none"> <i>Felony</i> if committed by an adult (a) Murder, aggravated murder, or attempt to commit aggravated murder or murder; (b) Murder, aggravated murder, attempt to commit aggravated murder, and voluntary or involuntary first degree murder, rape or aggravated robbery, aggravated arson or aggravated burglary.
Criteria	<ol style="list-style-type: none"> Investigation including a physical and mental examination, amenability to rehabilitation, safety of community Murder or aggravated murder with a previous conviction for murder or aggravated murder 	<ol style="list-style-type: none"> Investigation including a physical and mental examination, amenability to rehabilitation, safety of community, victim was 5 years or younger, victim received a personal injury, whether offender possessed a fire arm, and if child has a history of failure to rehabilitate (a) If previously placed in department of youth services for murder, aggravated murder, attempt to commit murder or aggravated murder, voluntary manslaughter, first degree involuntary manslaughter, kidnapping, aggravated arson, aggravated robbery, aggravated burglary, rape; (b) If murder, aggravated murder or attempt then transfer. If one of the other enumerated offenses criteria for mandatory transfer include (1) whether offense was committed with a firearm, or (2) whether offense was committed by a child previously placed in Department of Youth Services custody following a delinquency adjudication for a category 1 or 2 offense.
Sentencing	<ol style="list-style-type: none"> Adult sentence 	<ol style="list-style-type: none"> Adult sentence

aggravated robbery, aggravated burglary, felonious sexual penetration, and firearm offenses.

Records and Hearings

Contrary to the trend in many jurisdictions, Ohio does not allow public access to juvenile records and hearings. Only those with a direct interest in the case may attend hearings or access a child's juvenile records. Furthermore, Ohio still allows records to be sealed two years after the termination of any order made by the court. Sealing a record means to "remove the record from the main file of similar records and to secure it in a separate file that contains only sealed records and is accessible only to the juvenile court." Similar to many other states, however, Ohio does allow for a statewide repository of juvenile records, including fingerprints and photographs, and requires registration of sex offenders.

Table 3.4: Ohio's Sentencing Laws

Change/Addition	Offense	Determinate Sentence Option
1992	<ol style="list-style-type: none"> 1. Aggravated felonies or felonies of the 3rd or 4th degree. 2. Aggravated felonies or felonies of the 1st or 2nd degree. 3. Murder or aggravated murder. 	<ol style="list-style-type: none"> 1. At least 6 months at DYS. 2. At least 1 year at DYS. 3. Until 21st birthday.
1995	<ol style="list-style-type: none"> 1. Purchase or attempt to purchase a firearm. 	<ol style="list-style-type: none"> 1. At least 6 months at DYS.
1996	<ol style="list-style-type: none"> 1. Felony of the 3rd, 4th, or 5th degree. 2. Voluntary manslaughter, kidnapping, arson, aggravated assault, robbery, involuntary manslaughter while attempting to commit a felony, or rape. 3. Attempt to commit murder or aggravated murder. 4. Any felony if committed by an adult. 	<ol style="list-style-type: none"> 1. At least 6 months at DYS. 2. At least 1 to 3 years at DYS. 3. 6 to 7 years at DYS. 4. Same time as an adult, with a maximum of 3 years.

Indiana

Consistent with the other states in our study, Indiana enacted several significant changes to its juvenile code during the 1990s. These changes occurred primarily through bills passed in 1995 and 1997, with a substantial rewrite of its juvenile code in 1997. This legislation has excluded additional offenses from juvenile court jurisdiction, increased the offenses for which a judge may transfer a child to criminal

court, increased maximum periods of commitment for youth adjudicated delinquent for particular offenses, and increased public access to juvenile records and hearings.

Jurisdiction and Waiver

In Indiana, juvenile courts maintain jurisdiction over cases where a child is alleged to be delinquent or in need of services, paternity matters, the issuance of protective orders, and in need of detention prior to the filing of a petition. Jurisdiction may be exercised until the youth becomes 18 years old. However, Indiana has maintained a statutory exclusion provision throughout the 1990s, removing certain classes of youth from juvenile court jurisdiction. Between 1991 and 1997, jurisdiction was excluded over any child 16 years or older who was alleged to have committed murder, kidnapping, rape, robbery (if committed with a deadly weapon or resulting in bodily injury) or dealing a sawed-off shotgun. In 1997, however, additional offenses – criminal deviate conduct, carjacking, criminal gang activity, criminal gang intimidation, carrying a handgun without a license, dealing in cocaine or a narcotic drug, dealing in a schedule I, II, or III controlled substance, and/or dealing in a schedule IV controlled substance – were excluded from the juvenile court jurisdiction if the child was 16 or 17 years old when the offense was committed.

Indiana also allows for both discretionary and mandatory judicial waiver. Prior to 1997, the discretionary judicial waiver provision allowed the court to transfer a child when, upon motion of the prosecutor and full investigation, the court determined that the crime alleged was heinous, aggravated, or part of a repetitive pattern, the child was at least 14 years old at the time of the act, the child was beyond rehabilitation in the juvenile system, and it was in the best interests of the community for the transfer. Mandatory judicial waiver required transfer when, upon motion by the prosecutor and full investigation, a child at least 10 years old was charged with murder, unless it was in the best interests of the community and the safety and welfare of the community for the child to remain with the juvenile justice system. Additionally, the court must waive a child when, upon motion of the prosecutor and full investigation, the child was charged with an act that would be a Class A or B felony, involuntary manslaughter, or reckless homicide if committed by an adult, and the child was at least 16 years old when the act was committed, unless it was in the best interests of the child and safety and welfare of the community for the child to remain in the juvenile system.

The 1997 legislation added categories to both the discretionary and mandatory judicial discretion provisions. It provided that the court may waive a youth if the alleged act would be a felony if committed by an adult, the child was at least 16 years old at the time of the act, and it is in the best interests of the community for the child to be transferred. The legislation also provided that upon motion by the

prosecutor, the court shall waive a child to the criminal court if the child is charged with an act that would be a felony if committed by an adult and the child has previously been convicted of a felony or non-traffic misdemeanor.

Sentencing/Dispositions

Like Ohio, Indiana does not use a blended sentencing mechanism, but extends the jurisdiction over adjudicated youth to the age of 21. In general, dispositions in Indiana are indeterminate, but the code does contain some determinate sentencing provisions. In 1995 and 1997 several sentencing provisions were added to the determinate sentencing structure. In 1995, the legislature added the provision that children between the ages of 13 and 18 who are adjudicated delinquent for murder, kidnapping, rape, criminal deviate conduct, robbery with a deadly weapon, or inflicting deadly harm may be ordered to the department of corrections until age 18. The 1997 legislation provided that children 12 and under could not be sentenced to the department of corrections unless their offense is murder. Additionally, it provided that children 14 or older could be placed in a facility for up to 2 years if the adjudication is for a felony against a person, a Class A or B felony that is a controlled substance offense, and the child has two prior unrelated delinquent adjudications for acts that would be felonies if committed by an adult. These provisions allow judges to enact determinate sentences, but do not constrain the court's discretion in imposing dispositions.

Records and Hearings

Prior to 1997, access to juvenile records was limited to the judge and staff, parties and their attorneys, criminal court judges, prosecutors, and attorneys or staff from appropriate county departments. Access could also be granted to any person having a "legitimate" interest in the work of the court or in a particular case, provided that the court determines that it is in the best interests of the safety and welfare of the community to obtain information concerning an act of murder or part of a pattern of less serious criminal activity. In 1997, the legislature changed this provision to provide access to the above parties and to the general public whenever a petition has been filed alleging that the child is delinquent for the commission of murder or a felony, an aggregate of two unrelated acts that would be misdemeanors if the child was at least 12 years old when the acts were committed, or an aggregate of 5 unrelated acts that would be misdemeanors if the child was less than 12 years old.

Table 3.5: Indiana's Transfer Laws

	Pre-1997 Legislation	Post-1997 Legislation
Type of Waiver Mechanism	<ol style="list-style-type: none"> 1. Statutory Exclusion⁴⁹ 2. Judicial Discretion 3. Mandatory Judicial Discretion 	<ol style="list-style-type: none"> 1. Statutory Exclusion 2. Judicial Discretion 3. Mandatory Judicial Discretion
Minimum Age	<ol style="list-style-type: none"> 1. 16 years old 2. 14 years old 3. 10 years old (murder), 16 years old (other crimes) 	<ol style="list-style-type: none"> 1. 16 years old 2. 14 years old 3. 10 years old (murder), 16 years old (other crimes), no minimum.
Offenses	<ol style="list-style-type: none"> 1. Murder, kidnapping, rape, robbery,⁵⁰ or dealing in a sawed-off shotgun. 2. An act (see criteria). 3. Murder or aggravated murder (10 years old); murder, a Class A or B felony, involuntary manslaughter, or reckless homicide (16 years old). 	<ol style="list-style-type: none"> 1. Murder, kidnapping, rape, robbery,⁵¹ dealing in a sawed-off shotgun, criminal deviate conduct, carjacking, criminal gang activity, criminal gang intimidation, carrying a handgun without a license, dealing in cocaine or a narcotic drug, dealing in a schedule I, II, III, or IV controlled substance. 2. An act (see criteria). 3. Murder or aggravated murder (10 years old); murder, a Class A or B felony, involuntary manslaughter, or reckless homicide (16 years old); or, the child is charged with an act that would be a felony and has previously been convicted of a felony or non-traffic misdemeanor (no minimum).
Criteria	<ol style="list-style-type: none"> 1. Age and Offense 2. Act that is heinous, aggravated, or part of a repetitive pattern, with greater weight given to acts against persons, child is beyond the rehabilitation of the system, and in the best interests of the community. 3. Age and offense, unless it is in the best interests of the child and safety of the community for the child to remain in the juvenile court. 	<ol style="list-style-type: none"> 1. Age and Offense 2. Act that is heinous, aggravated, or part of a repetitive pattern, with greater weight given to acts against persons, child is beyond the rehabilitation of the system, and in the best interests of the community; or an act that is a felony, child was at least 16 years old, and it is in the best interests of the community. 3. Age and offense (record), unless it is in the best interests of the child and safety of the community for the child to remain in the juvenile court.
Sentencing	<ol style="list-style-type: none"> 1. Adult sentence. 2. Adult sentence. 3. Adult sentence. 	<ol style="list-style-type: none"> 1. Adult sentence. 2. Adult sentence. 3. Adult sentence.

⁴⁹ Added in 1991.

⁵⁰ If committed with a deadly weapon or bodily injury results.

⁵¹ See note 52.

Access to juvenile proceedings underwent similar changes with the 1997 legislation. Prior to 1997, the juvenile court could determine when to exclude the public from juvenile court proceedings. This determination was based upon whether the best interests of the community are served by allowing the public to obtain information about cases involving a charge of murder or that are part of a pattern of less serious offenses. The 1997 legislation provided the juvenile court with the authority to determine whether the public should be excluded from proceedings, except when the case involves murder or a felony if committed by an adult, in which case the proceedings are open. These changes open juvenile proceedings and records to the public for a wide variety of reasons, increasing the accountability of judges and the youth to public scrutiny.

Illinois

Illinois revised its juvenile code in 1998. Prior to this revision, it passed a number of legislative provisions regarding the juvenile court from the mid-1980s through the late 1990s. The 1998 revision was the subject of extreme controversy within the juvenile justice community in Illinois. The legislature convened a committee made up of individuals from all areas of the juvenile justice community to revise the code in 1994. It cited violent youth crime and a changing landscape of juvenile justice as the reasons for authorizing the committee. The committee did not come to a consensus, but instead, issued a majority and several dissenting reports in 1996. As a result of this dissension, the legislature passed the job of drafting the legislation to the Illinois State's Attorneys Association. This move invoked an outcry from the juvenile justice community and initially resulted in an extremely punitive revision. The bill was eventually toned down and passed in 1998. Because of its recency, the impacts of the code revision are still being understood.

Illinois is the only state among these four to change the purpose clause of its juvenile code. The new purpose clause states that the goals of the juvenile justice system are: (1) to protect citizens from juvenile crime; (2) to hold each juvenile offender accountable for his or her conduct; and, (3) to equip juvenile offenders with the educational, vocational, social, emotional, and life skills which will enable the juvenile to mature into a productive member of society. These goals are based upon a balanced and restorative justice model that strives to restore the victim, community, and juvenile offender to a state of well-being by repairing the harm caused to these parties by the crime. This purpose clause differs significantly from the prior delinquency act which did not contain a separate purpose clause but instead, shared a common purpose with the other articles of the juvenile act pertaining to abused, neglected, and dependent children. The prior clause did not mention public safety and used a "best interest of the child

and community” standard for the various types of proceedings under the act. The new act also changed much of the language in the code from “civil” court language to language common to the criminal court.

Jurisdiction and Waiver

The juvenile court in Illinois is similar to Michigan in that it has jurisdiction over any youth under the age of 17 who is alleged to have violated any federal or state law or municipal or county ordinance. Both before and after the 1998 legislation, Illinois used statutory exclusion, as well as discretionary, mandatory, and presumptive judicial waiver as transfer mechanisms. Offenses under the statutory exclusion provision did not change with the new legislation. Table 6 gives a brief overview of the offenses statutorily excluded from the juvenile court and the year the exclusions were implemented. Currently, the youngest age eligible for transfer under the statutory exclusion mechanism is 13 years old. Offenses transferable at this age are murder committed during a criminal sexual assault, aggravated criminal sexual assault, or aggravated kidnapping. Minors aged 15 and over charged with first degree murder, aggravated criminal assault, armed robbery (committed with a firearm), and aggravated vehicular hijacking (committed with a firearm) are excluded from juvenile court jurisdiction. Two significant aspects of the statutory exclusion provision include changes in 1985 and 1990 that exclude a child aged 15 or over who is charged with a violation of the Illinois Controlled Substance Act while in or within 1,000 feet of school property or public housing.⁵² Additionally, the 1985 changes exclude a child charged with possession of a weapon on or within 1,000 feet of school property. As Chicago shifts to scattered site public housing, this provision will have tremendous reach throughout the city.⁵³

Illinois also uses discretionary, mandatory and presumptive judicial transfer mechanisms. Discretionary judicial transfer provisions allow the court to transfer a youth 13 years or older, upon motion of the prosecutor, if the court finds that it is in the best interests of the public for the youth to be transferred. Factors to be considered in the decision include the seriousness of the offense, the minor’s criminal history, age, culpability in committing the offense, whether the offense was committed in an aggressive or premeditated manner, whether a deadly weapon was used, history of services provided to the minor, reasonable likelihood of rehabilitation, and the adequacy of punishment or services available in the juvenile court. The 1998 legislation required that greater weight be given to the seriousness of the offense and the minor’s prior record than to the other factors.

⁵² See Chapter 7 for a discussion of the effect of this law.

⁵³ See Ziedenberg (2001).

Table 3.6: Illinois' Transfer Changes⁵⁴

Offenses	Minimum Age	Year
First degree murder, aggravated criminal sexual assault, armed robbery with a firearm	15	1982
Controlled Substance Violation/weapons violation on or within 1,000 feet of school property	15	1985
Felony/forcible felony in furtherance of gang activity with prior felony/forcible felony adjudication	15	1990
Controlled Substance Violation on or within 1,000 feet of public housing	15	1990
Subsequent charges of escape/bond violation for minors already transferred to criminal court	13	1991
Aggravated vehicular hijacking	15	1995
First degree murder committed during a criminal sexual assault, aggravated criminal sexual assault, or aggravated kidnapping	13	1995

The presumptive judicial transfer provision was enacted in 1995. Presumptive judicial transfer occurs when a minor 15 years or older is alleged to have committed a Class X felony other than armed violence, aggravated discharge of a firearm, or armed violence with a firearm when the predicate offense is a Class 1 or 2 felony, and the petition signifies that the act was committed in furtherance of criminal activity by an organized gang, that the act was armed violence with a firearm when the predicate offense is a violation of the Illinois Controlled Substances Act, or that the act was armed violence when the weapon involved is a machine gun. When one of these charges is indicated and probable cause exists, there is a rebuttable presumption that the minor is not fit to be handled in the juvenile court. The minor shall be transferred unless the court makes a determination based upon clear and convincing evidence that the minor would be amenable to the services of the juvenile court. Factors to be considered include the seriousness of the offense, the minor's criminal history, age, culpability in committing the offense, whether the offense was committed in an aggressive or premeditated manner, whether a deadly weapon was used, history of services provided to the minor, reasonable likelihood of rehabilitation, and the adequacy of punishment or services available in the juvenile court.

Mandatory judicial transfers will occur if a petition alleges the commission of a felony or forcible felony by a minor 15 or older when the prosecutor alleges that the minor has previously been adjudicated delinquent or found guilty of a forcible felony and the act constituting the offense was in furtherance of criminal activity by an authorized gang. Additionally, the minor shall be mandatorily transferred when committing an offense included in the presumptive transfer provision and the minor has previously been

⁵⁴ Administrative Office of the Illinois Court, Probation Division.

adjudicated delinquent or found guilty of a forcible felony. The 1998 legislation produced one major change by adding an "once an adult always an adult" provision. This provision stipulates that once a minor is charged as an adult, any subsequent offense shall automatically be tried in the criminal court, regardless of offense type and age.

Sentencing/Dispositions and Correctional Programming

The 1998 legislation added a blended sentencing provision called Extended Juvenile Jurisdiction (EJJ). Any child 13 or older who commits a felony can be tried under this provision. The state's attorney must file a motion and if probable cause exists that the minor committed the crime and the minor is at least 13, a rebuttable presumption is established for EJJ. The presumption is rebutted if the judge finds that an adult sentence would not be appropriate given the seriousness of the act, the minor's culpability, the minor's age and history of delinquency, and whether the offense was committed in an aggressive or premeditated manner, including whether the minor used or possessed a deadly weapon. If the court decides to proceed under EJJ, the minor has a right to a jury trial. EJJ requires, upon conviction, that a juvenile and adult sentence be issued and the adult sentence is stayed while the minor completes the juvenile sentence. If the minor complies and completes the juvenile sentence, the adult sentence is dropped. However, the court may execute the adult sentence if the minor does not comply with the orders of the juvenile sentence or commits a new offense. The court maintains the discretion not to execute the adult sentence if the minor violates his/her disposition order, but shall execute it if, by a preponderance of the evidence, it is proven that a new offense is committed.

Illinois' juvenile code also has a Habitual Offender provision. This provision requires that if a minor is adjudicated delinquent for certain felonies, and has previously been adjudicated delinquent for two other felonies, the minor will be held in the Department of Corrections until the age of 21 without parole or a furlough.⁵⁵ Minors tried under the Habitual Offender provision have the right to a trial by jury. The 1998 legislation extended the duration of jurisdiction for both probation and commitment to the Department of Corrections from 19 years old to 21 years old.⁵⁶ Minors who are convicted in the adult criminal court are held in the Juvenile Division of the Department of Corrections until at least 17 years of age prior to being transferred to the adult division.

⁵⁵ The third felony must be first degree murder, second degree murder, involuntary manslaughter, criminal sexual assault, aggravated criminal sexual assault, aggravated or heinous battery involving permanent disability or disfigurement or great bodily harm to the victim, burglary of a home or other residence, home invasion, robbery or armed robbery, or aggravated arson.

⁵⁶ Jurisdiction until the age of 21 was previously allowed only for Habitual Juvenile Offenders and first degree murder.

The continuum of dispositional options includes probation, conditional discharge to parents or guardian, substance abuse assessment and placements, placement with the Department of Children and Family Services (if under age 13), placement in a detention center for up to 30 days, emancipation, commitment to the Department of Corrections, court supervision for substance abuse treatment, community service and restitution. Probation shall not exceed 5 years or until the minor reaches age 21 and minors found guilty of first degree murder, a Class X felony, or a forcible felony shall be on probation at least 5 years. Minors may be committed to the Department of Corrections if it is determined that parents or guardians are unable to care for the minor for reasons other than financial circumstances, other placements are not in the best interests of the minor, and it is necessary to protect the public. All commitments are for an indeterminate period, except for first degree murder, which shall be until the minor's 21st birthday.

Records and Hearings

In 1992, Illinois created the Serious Habitual Offender Comprehensive Action Program (SHOCAP) to share information regarding serious juvenile offenders among the juvenile justice system, schools, and social service agencies. Each county in the state established a committee to determine how SHOCAP would operate, including creating a definition of a "serious habitual offender." Although Illinois does not provide for an open hearing, it does provide for the fingerprinting and photographing of minors. The 1998 legislation further required that records of serious school infractions be kept for at least five years and that records of station adjustments be kept in a central database and eliminated the requirement of destroying records in the state police database when the minor reaches 19 years old.

Station Adjustments/Restorative Justice

This section briefly discusses both recent and past legislative changes that have had or may have an impact on case processing. Prior to the 1998 legislation, police in Illinois could issue an informal or formal station adjustment and impose sanctions. There was no limit to the number of station adjustments allowed and no record keeping mechanism. The 1998 legislation, however, proposed limits of 3 informal and 2 formal station adjustments over a three-year period and required that all records of station adjustments be kept in a central state database. This change has the potential to increase the number of cases coming into the system if youth were receiving numerous station adjustments prior to the change in the law. Another point to mention with regard to Illinois is that it changed its law in 1982 placing the responsibility for status offenses in the hands of the Department of Children and Family Services (DCFS).

Petitions may be filed, but only after a number of requirements have been met. Consequently, very few status offense petitions are filed in Illinois.

Finally, the 1998 legislation called for the creation of Community Mediation Programs, a form of restorative justice, to be established by the State's Attorneys office. The goal of these programs is to make the juvenile understand the seriousness of his or her actions and the effects the crime has on the minor and his or her family, victim, and community. Referrals can be made by the police, probation department, or the State's Attorney. The panel must conduct a hearing and decide whether to impose sanctions. Sanctions can include placement in a community-based non-residential program, referral of the minor and/or family to community and/or substance abuse counseling, requiring the minor to perform up to 100 hours of community service, restitution, and school attendance or tutoring sessions.

Judges' Views on Restrictions to Decision Making

In light of the degree and magnitude of code changes nationwide and in these four states, it is important to understand what impacts these changes and other factors have on judges' discretion and decision-making ability. Here we draw upon judges' responses to a survey of practitioners in the twelve counties in this study.⁵⁷ We surveyed probation officers, judges, prosecutors, and public defenders in each of these twelve counties. Many of the questions were consistent across the surveys, although sections were added relevant to each position.

This analysis focuses upon judges' responses to a set of questions included on only the judge survey. The response rate for judges was 64% ($n = 82$). Although analyses are limited by sample size, this data provides some interesting insight into judicial attitudes toward codes and other decision-making factors. Analysis of variance allows me to examine differences among states with regard to individual questions and among the questions themselves. County level variance is not possible to examine because of the small number of judges in each county.

Judges were asked a set of four questions not included on other surveys. These questions focused on how the juvenile code, media, and availability of placement alternatives affected their discretion and decision-making ability. Judges were given statements and asked to indicate their level of agreement on a five-point scale that ranged from strongly disagree (1) to strongly agree (5). The neutral point on the scale was indicated by (3). For discussion purposes, a label for each question is contained in parentheses. The four questions are:

⁵⁷ The methodology and sample for the survey are described in Chapter 2.

- (1) Recent changes in the juvenile code have significantly restricted judicial discretion (*judicial discretion*).
- (2) Recent changes in the juvenile code have reduced the ability of judges to order the most appropriate program for a juvenile offender (*program*).
- (3) The range of available and appropriate resources significantly restricts effective judicial decision making (*decision making*).
- (4) Public opinion does not influence judicial decision making (*public opinion*) [reverse coded for analysis and comparison].

Table 7 presents the means and standard deviations for individual states and the total sample. This table shows that differences exist across state means and total means for each of these questions. We used analysis of variance to determine whether significant differences existed between states on each of these questions. Overall, few significant differences existed across the states, as the only difference was found on *judicial discretion* ($F = 2.72, p < .05$). The Levene's test for equality of error variance did not indicate that equality of variance could be assumed, so the Tukey HSD post-hoc test was used to test for significance. A trend level difference was found between Michigan and Indiana ($p < .10$). Thus, Michigan judges reported that their discretion was constrained by the juvenile code more than Indiana judges.

Table 3.7: Means and Standard Deviations of Judicial Responses Toward Discretion and Decision Making

State	Judicial Discretion		Program		Decision Making		Public Opinion	
	M	SD	M	SD	M	SD	M	SD
Michigan	3.66	1.29	3.31	1.28	4.21	0.77	3.41	1.24
Ohio	3.54	1.20	3.12	1.30	3.51	1.29	3.33	0.97
Indiana	2.38	1.19	2.38	0.92	3.88	1.36	3.25	1.04
Illinois	2.89	1.62	2.56	1.01	3.89	1.36	3.23	1.09
Total	3.40	1.32	3.05	1.25	3.84	1.17	3.30	1.08

Additional analyses were run comparing one state against multiple states to adjust for the small cell sizes. Significant results were found in several of these analyses. Ohio judges differed significantly from the rest of the sample with regard to *decision making* ($F = 5.03, p < .05$), indicating that although Ohio judges do feel that the range of available resources restricts their effective decision making, this effect is significantly less than indicated by judges in the other three states ($p < .05$). On this question, Michigan judges reported a significantly greater restriction than the other states combined ($F = 4.69, p <$

.05). Through this analysis, it is apparent that some differences do exist between states on these responses. The small cell sizes greatly limit the ability to test for differences between states. However, the results of the analysis of variance indicate that judges do report some differences in the factors that affect their case processing.

Michigan has experienced a recent shift in waiver discretion from judges to prosecutors. Anecdotal evidence indicates that Michigan judges feel this shift in power does constrain and impact their discretion over juveniles. Ohio has implemented a funding program that provides local court control over the way that funds will be spent to serve youth. The effect of this program is displayed through the difference between Ohio and the other states on the impact of the range of available resources. Despite the limited results of this analysis, the data found some differences and further indicates that additional analysis on the role of the juvenile code and other factors affecting judicial discretion and decision making is important for understanding the function and practice of the court.

A paired-samples T-test was used to test for differences between item means. Although the questions do not measure the same factor (i.e., discretion, decision making), they do provide insight into what sets of factors judges agreed were most limiting. The paired samples T-test compares the means of two items at a time. In order to examine the differences between all four questions, six pairs were run. The Bonferroni adjustment was used to adjust for six pairs of means being tested. According to the Bonferroni adjustment, significance level is divided by the number of pairs tested (6). The paired samples T-test found differences (.05) between *decision making* and both *program* and *public opinion*. Significant differences between *decision making* and *judicial discretion* were not found. However, a difference between *judicial discretion* and *program* (.05) was also observed.

These results measure factors that judges feel impact their role in case processing. Three of the items, *judicial discretion* ($\underline{M} = 3.40$), *decision making* ($\underline{M} = 3.84$), and *public opinion* ($\underline{M} = 3.30$) were above the midpoint ($\underline{M} = 3.00$). *Program* ($\underline{M} = 3.05$) was almost at the midpoint. This indicates that judges agreed more often that code changes restricted their discretion, the availability of resources restricted effective decision making, and that the impact of public opinion on judicial decision making, while they were neutral, on average, about the effects of code changes on their ability to order the most appropriate program.

Judges reported that code changes restrict their discretion more than their ability to order the most appropriate program. This is consistent with code changes that have increasingly allowed other parties to make transfer decisions, have enacted mandatory minimum and determinate sentencing in some cases, and have opened the court process to public scrutiny. Code changes have not substantially affected judges' ability to order programs, placements, and services for youth, outside of some exceptions. Additionally, judges reported that the range of available and appropriate resources restricts effective

judicial decision making more than the code restricts their ability to order the most appropriate program. They also reported that public opinion was more of a factor than the effect of the code on their ability to order the most appropriate program.

While limited, this data indicates that code changes do affect judicial discretion, but judges are, on average, neutral on their ability to order the most appropriate program. The range of available resources is also a significant restriction on their effective decision making compared to other factors. These findings suggest that code changes are a factor impacting judges in some respects, but decision making is also affected by other structural factors in the administration of juvenile justice, particularly the availability of resources and public opinion. Additional research, both survey and ethnographic, is needed to further specify the factors affecting the administration of juvenile justice, but this data indicates some factors that impact judges.

State Discussion

The state analysis allows us to look specifically at how codes and code changes in four states affect the juvenile court. Through this examination of codes and code changes in individual states, we can gain more information about the impact and meanings that these changes can have on courts.

Michigan's code changes primarily focused on transfer mechanisms and providing judges in the criminal court with a variety of tools to deal with juvenile offenders. Michigan lowered or eliminated the minimum age criteria of its different mechanisms and focused the judicial decision on more offense-related criteria. A vast amount of discretion is now provided in Michigan for prosecutors to make transfer decisions. This was a significant change for a state that traditionally placed the transfer decision in the hands of the judge except in certain situations. Additionally, the mechanism used by prosecutors has direct bearing on the potential sentence that is accorded. Whereas criminal court judges previously could decide on the sentence type (juvenile or adult), now much of that choice is determined by the choice of transfer mechanism. This has removed discretion from juvenile court judges with regard to jurisdictional choice and from criminal court judges with regard to sentence type. Supporting this finding is the data on the effects of the code on judicial discretion and the ability to order the most appropriate program (Table 7). Michigan judges reported that code changes have reduced their discretion ($M = 3.66$) and their ability to order the most appropriate program ($M = 3.31$).

Michigan code changes have not reduced the discretion of the court in sentencing/dispositions, except in the criminal court. Michigan does not utilize either mandatory minimum or determinate sentencing provisions or many other provisions that structure decisions and remove discretion from the court. The maximum age of jurisdiction over adjudicated youth can be extended to age twenty-one,

providing the court with more time to control and monitor youth. With regard to factors besides the code that impact decision making, Michigan judges reported that the range of available and appropriate placements does affect their decision-making ability ($\underline{M} = 4.21$). On this item, Michigan judges differed significantly from those in the other states. Although it is apparent that code changes in Michigan have decreased the decision-making ability of judges, specific provisions have not significantly altered the power of the juvenile court with regard to case processing and dispositions. Judges also reported that public opinion does influence their judicial decision making ($\underline{M} = 3.41$). This finding is relevant given the increased attention provided to the juvenile court throughout the 1990s.

As opposed to Michigan, judges in Ohio still make the transfer decision, although mandatory judicial transfer is used in some circumstances. The minimum age for transfer has dropped from fifteen to fourteen. The range of offenses eligible for transfer have grown and the transfer criteria have become more offense oriented and include a number of aggravating factors, but judges still make the transfer decisions. Dispositional decision making in Ohio, however, is more structured than in Michigan with regard to sentencing. Ohio includes a variety of mandatory minimum sentencing provisions in their code that set the minimum or entire sentence length. This provides more punitive power to the court to set minimum sentence lengths for particular offenses and Ohio expanded this power during the 1990s.

In 1993, Ohio passed and began piloting the RECLAIM Ohio program. RECLAIM provides local courts with funding to make decisions regarding placements for youth. Nevertheless, Ohio judges did feel that the range of available and appropriate placements restricts effective decision making ($\underline{M} = 3.51$). However, there was a significant difference between Ohio and the other states concerning the range of available resources, with Ohio judges less likely to report that placement availability and appropriateness restricts their decision making. This is possibly an effect of RECLAIM and the provision of funds to local jurisdictions to create programs and services. The mean ($\underline{M} = 3.54$) for the effect of the code on discretion was over the midpoint of three. This signifies that Ohio judges do feel that the code restricts their discretion somewhat. Ohio has not responded to youth crime as much through transfer as Michigan, but instead has focused on mandatory minimum and determinate sentencing. Overall, Ohio has implemented a number of laws that have made the juvenile court increasingly punitive with regard to transfer and sentencing, but has also implemented a funding program that provides more resources to local courts.

Indiana rewrote its juvenile code in 1997. This rewrite expanded the offenses available for transfer through both the judicial waiver and statutory exclusion mechanisms, as well as changed the criteria for transfer in some cases. Additionally, it provided juvenile court judges with some determinate sentencing authority for specific crimes. Thus, it removed some jurisdiction from judges through the expansion of offenses eligible for transfer through the statutory exclusion mechanism, but also increased

the tools available for judges to deal with juvenile offenders by increasing the offenses for judicial waiver and providing determinate sentencing power. As discussed above, Indiana judges disagreed that the code restricted their discretion ($\underline{M} = 2.38$). They also disagreed that the code affected their ability to order the most appropriate program ($\underline{M} = 2.38$). These responses are consistent with the code changes reviewed above. Except in the case of statutory exclusions, they have not overwhelmingly removed discretion from the court, and have slightly increased the tools available to judges to deal with juvenile offenders.

Similar to Indiana, Illinois rewrote its juvenile code in 1998. It also enacted a number of provisions throughout the 1980s and 1990s that impacted the jurisdiction of the court. These provisions dropped the minimum age for transfer for some mechanisms and increased the number of offenses eligible for transfer. For example, changes in 1985 and 1990 automatically transfer youth who are within 1,000 feet of public housing or schools and charged with a violation of the Controlled Substances Act or a weapons offense. These provisions are significant for areas with substantial public housing or schools within their jurisdiction and limit the authority of judges to make decisions in these cases. The Extended Juvenile Jurisdiction provision provides additional tools for the court to impose sentences on juveniles and gives authority for determining whether EJJ is appropriate to both the judge and prosecutor. Illinois has also extended the age of jurisdiction of the court to 21, thereby increasing the control of the court over youth. Additionally, like Michigan, Illinois ends juvenile court jurisdiction at age 16, removing 17 year-olds from the jurisdiction of the court entirely.

The restorative justice programs mandated by the legislation provide another way to divert juveniles from the formal court process. However, prosecutors are authorized to draft and implement these provisions, giving them greater discretion over the flow of cases into the system. The record keeping provision in the station adjustment authorization also has the potential for increasing the flow of cases into the system because it mandates that police officers must bring youth to the court after a certain number of adjustments. Overall, code changes in Illinois have primarily focused on transfer, but have also provided more tools to the court to deal with juvenile offenders. Additionally, they have mandated some decisions at different stages of case processing, including police decisions to refer, diversion options, and control of the system over youth.

Judges in Illinois did not report, on average, that the code restricted their discretion ($\underline{M} = 2.89$) or that it affected their ability to order the most appropriate program ($\underline{M} = 2.56$). It is unknown whether the recency of the code revision has any impact on this finding. The nature of code changes in Illinois does not indicate a great deal of structuring of decisions or reductions in their discretion outside of transfer. Judges did report, however, that the range of available resources restricts effective decision making ($\underline{M} = 3.89$).

In sum, this review of code changes in four states reflects some substantial changes in the legal structures governing juvenile courts, but also indicates that juvenile courts still maintain a great deal of power and discretion for dealing with juvenile offenders. Codes increasingly structure decisions, but the degree of structured decision making differs across the four states. The states are becoming increasingly punitive in their orientation, but differ tremendously in the provisions they use towards this end. In one state, prosecutors are statutorily becoming more powerful, while, in another, mandatory minimum and determinate sentencing signify attempts to hold youth responsible for their offenses. The remaining two states use a greater variety of mechanisms in their shift to a more punitive orientation. One constant across the states is the trend to treat children as adults at younger ages and for a broader array of offenses, thereby eroding distinctions between children and adults.

CONCLUSIONS

This chapter presented substantial information concerning juvenile codes. The quantity of information presented is a reflection of the tremendous amount and degree of change in the legal structures governing juvenile courts. During the 1990s, change has been constant and has impacted the juvenile court's jurisdiction, judges' disposition/sentencing power, correctional programming, and public access to records and proceedings. Viewing code changes in these four states in conjunction with the national picture, several conclusions can be drawn.

- 1. Shifting borders.** It is clear that the boundary between the juvenile and adult criminal court has shifted tremendously throughout the 1990s. Several mechanisms currently exist to transfer jurisdiction or grant exclusive jurisdiction over particular youth to the adult criminal court. Transfer has appeared as an increasingly prominent strategy that states employ to deal with juvenile offenders. The minimum age for transfer has decreased in many states and a minimum age is not specified in numerous states. The list of transferable offenses has also grown over the years and now includes many property, drug, and public order offenses in addition to violent offenses.
- 2. Decision-making power is in the hands of a variety of different decision-makers.** Most states now employ a variety of different transfer mechanisms that place the transfer decision in the hands of different practitioners. Legislatures and prosecutors now maintain a substantial authority in the transfer decision and an increased role in determining sentences.

- 3. Prosecutors gaining more power in the court.** As indicated previously, code changes have shifted the decision making power to a variety of juvenile court actors. One of the most notable changes is the number of prosecutorial discretion statutes that have been enacted. Several variations of the prosecutorial discretion mechanism exist but in general, prosecutors are statutorily provided with more power in the juvenile court with regard to transfer and sentencing. This is an important issue as few guidelines or checks exist to review the decisions of prosecutors.

- 4. The juvenile court has more tools to deal with juvenile offenders.** Besides transfer, states currently employ an increasing variety of tools to deal with juvenile offenders. Blended sentencing statutes are appearing in many states as a means to deliver an adult and/or juvenile sentence. Mandatory minimum and determinate sentences are also becoming more common in juvenile codes. States are also increasingly extending jurisdiction beyond the traditional boundaries of eighteen. Numerous states have extended juvenile court jurisdiction over an offender to age nineteen or twenty-one, while several have extended it to age twenty-five. Juvenile records are increasingly shared and utilized by law enforcement, schools, and other social service agencies. These changes have focused on increasing the costs associated with juvenile crime. In many cases, these costs may be even greater than those for adults committing similar offenses.

- 5. Correctional programming is becoming more punitive, although the juvenile justice system still maintains an array of services, programs, and placements.** Correctional options for young offenders, particularly serious offenders, are increasingly becoming punitive. However, programs like RECLAIM Ohio do provide resources to local courts to implement community-based services. Thus, despite the increasing punitiveness of correctional options, the juvenile justice system still provides a mix of programs, placements, and services to juvenile offenders.

- 6. Justice by geography.** States differ dramatically on transfer, sentencing, correctional programming, records, and other provisions of juvenile codes. They employ a variety of strategies to deal with juvenile offenders that vary widely across states and affect youth in different ways. Youth charged with identical crimes at the same age can be treated much differently across states by juvenile codes.

- 7. Juvenile court decisions are increasingly being structured by juvenile codes.**
Juvenile court discretion is being restricted through transfer and sentencing provisions that shift the decision making power or directly structure particular decisions. These codes are often quite detailed and raise considerable questions about their implementation in practice.
- 8. Judicial discretion is being restricted in part, but is expanding in other areas.**
Despite some provisions that provide more power and authority to juvenile court judges, judicial discretion is being constrained by code changes. Decisions are increasingly being structured or discretion is given to prosecutors to make decisions. However, judicial discretion is being expanded in some areas such as determinate sentences and a broader population of youth eligible for transfer.
- 9. Increased scrutiny on the court and on youthful offenders.** Code changes have increasingly opened juvenile records and proceedings to the public and other state agencies, increasing the potential scrutiny on judicial decisions. Courts are increasingly sharing information with other agencies that also opens scrutiny on the court and on youth. The media is also playing an increasing role in shaping the decisions of courts.
- 10. The code and availability of resources affect discretion and decision making.**
Various factors in the administration of juvenile justice affect judges' case processing. Judges in two states reported that code changes do affect judicial discretion and judges in all four states reported that the availability of resources restrict effective decision making. Attention must be paid to these other factors in order to understand differences in decision making.
- 11. Still room at the local court level for policies, procedures, and practices that affect case processing.** Despite the degree and magnitude of code changes, juvenile courts and court actors still maintain a great deal of discretion in determining the flow of cases through courts. Juvenile codes do not restrict many aspects of case processing, but can provide informal means for courts to dispose of cases.

12. The mission of the juvenile court expressed through juvenile codes is increasingly punitive. Overall, the data reviewed in this chapter indicate that Zimring's (1998) argument that legislation has re-oriented the mission of the juvenile court is correct. Although the juvenile justice system does still provide a variety of programs, placements, and services not available in the adult criminal justice system, it is becoming a more punitive system and is increasingly treating children like adults. It also remains a powerful institution despite jurisdictional changes and transfers of power to prosecutors and legislators.

CHAPTER 4

MICHIGAN

THE COURT IN THE COMMUNITY: CONTEXTUALIZING THE ADMINISTRATION OF JUVENILE JUSTICE

This chapter examines characteristics of juvenile justice administration in the state of Michigan. Its purpose is to establish a general understanding of the state system and characteristics of selected counties which operate semi-autonomously within its framework. This discussion should also facilitate a appreciation of the variation in juvenile justice administration, not only within Michigan's juvenile justice system(s) but, ultimately, in the case of the twelve counties from four Midwestern states which we analyze in this research.

We have chosen to organize the discussion according to what we believe are four key differentiating factors in juvenile justice administration: *Legislation, Organization, Resources, and Court Community*. These factors should not be interpreted as mutually exclusive or exhaustive categories, but, rather, as important influences which intersect to give shape and substance to the organization of decision making and case processing in the juvenile justice systems we have studied. The Michigan summary is organized in two parts. First, we provide a general summary of the state system focusing on the differentiating factors described above. Next, drawing on interviews, observations, and case processing data, we present examples of these factors in three Michigan counties. Our observations regarding differentiating factors in Michigan juvenile justice administration are summarized at the conclusion of this chapter.

THE MICHIGAN SYSTEM

The juvenile court movement arrived in Michigan soon after the establishment of the nation's first juvenile court in Illinois (1899).¹ The juvenile court was established in Wayne County by a law passed by the state legislature of 1907, making it a division of the probate court and giving it original jurisdiction in the cases of delinquent, dependent, and neglected children under seventeen years of age (Mead, 1928). Legislation has thus played a primary role in juvenile justice administration since the inception of the court and continues to do so today. The most common forms of legislative influence

¹ Juvenile Court acts were passed this year in Rhode Island and the city of Denver as well (Mennel, 1973).

today are revisions of the juvenile code which broadly defines goals, strategies, and procedures for a state's juvenile justice system. As discussed in Chapter 3, there have been several code changes in Michigan since 1990, most of which address the transfer of youthful offenders from the juvenile system to adult court and corrections. Legislation has also impacted the organization of the court system and its surrounding network of delinquency service resources in Michigan.

The court organization outlined in the original 1907 legislation endured for ninety years. The court has recently (1996) been reorganized by Public Act 388 which relocated delinquency and other juvenile and family matters from the jurisdiction of the probate court to a new "family division" of the circuit court. The act became law in 1996, and, allowing for a period of planning and gradual transition, counties throughout Michigan were expected to be in compliance by January, 1999. A major implication of this change is that all family law-related cases previously handled by the probate and circuit courts – i.e. adoption, abuse and neglect, child custody, delinquency, divorce, etc. – are consolidated in a new "family division" of the circuit court exclusively. The reorganization has eliminated the probate court's role in delinquency and abuse/neglect cases. This strategy is believed to offer greater efficiency and effectiveness as, for example, the same decision makers (i.e. judges) handle all family law cases and thus gain greater experience and specialization in each of the specific but often interrelated areas of application. Elsewhere in this discussion, we consider how this legislation, as well as other initiatives related to the juvenile code and service resources, has impacted justice administration in diverse county contexts.

Another key differentiating feature in juvenile justice administration is the organization and nature of delinquency service resources within a county court system. These resources are organized at two levels in Michigan's juvenile justice system. First, juvenile justice services are administered state-wide through the Office of Juvenile Justice (OJJ) and Purchased Care Division, both of which are branches of the state's social service agency, the Family Independence Agency (FIA).² FIA develops policies and programs to serve adjudicated youth between the ages of 12 and 20 who are committed or referred to FIA by county courts. The Office of Juvenile Justice manages state-operated residential treatment facilities, limited probation, foster care and reintegration services. The Purchased Care Division develops and monitors contracts with private residential treatment facilities which provide services to the majority of delinquent youth committed to FIA. Additionally, local county-operated FIA offices provide or contractually arrange a variety of services related to family preservation (i.e. foster care

² The Office of Juvenile Justice was known as the Office of Delinquency Services (ODS) prior to January 1998. Also, both OJJ and the Purchase Care Division are within the Child and Family Services Administration, a unit within the Family Independence Agency.

and foster care prevention) and community-based juvenile justice initiatives such as delinquency prevention and reintegration programs for delinquent youth released from residential facilities.

Additional juvenile justice service resources in Michigan are developed and administered within individual counties under the auspices of the court, whereas in the case of child welfare, generally the state takes a more active role in administration of services. While FIA may subsidize juvenile justice initiatives, they are largely developed, funded, and administered independent of the state's department of social services. Counties vary widely in their sources of funding and program assistance, drawing from federal, state, and local sources including Medicaid, Community Mental Health resources, and the state Child Care Fund. Several courts in Michigan have developed grant writing divisions to solicit funds directly from public and private institutions. County-sponsored services may include prevention programs (i.e. family counseling or drug treatment), assessment services, detention, intensive probation, community-based treatment programs for adjudicated delinquents, and reintegration services (Auditor General, 1999). Thus, while FIA is a major provider of delinquency services in the state of Michigan, the continuum of services includes both state, private and county-operated resources. This resource arrangement has important and diverse implications for juvenile justice administration in Michigan counties.

Finally, we have observed that various cultural and structural characteristics of the "court community" play an important and diversifying role in Michigan's juvenile justice system. The court community framework conceptualizes courts as "social worlds, or communities of action and communication" (Ulmer, 1995, p. 589; Einstein, Fleming and Nardulli, 1988). This approach draws attention to the "localized, diverse processual orders in which case processing and sentencing practices develop through the ongoing interaction of courtroom workgroup members" who are further situated in specific community contexts (Ulmer and Kramer, 1998, p. 251). Thus, philosophical and behavioral orientations of actors in specific court settings can be understood as reflections of the formal and informal organization of the court as well as the organization of the community in which the court operates. In this sense, the court community paradigm appreciates justice administration as a fundamentally ecological phenomenon.

In Michigan, this court community dynamic is evident at several levels. In each of our sample counties, we observed how various direct and indirect pressures from other community institutions and actors (i.e. media, police, and residents), as well as characteristics of social organizations (i.e. families), generally pressured court decision makers and occasionally forced changes in case processing. We have also noticed how the culture and structure of decision making in various Michigan courts has been influenced by a major shift in the societal and philosophical disposition toward juvenile delinquents, what can be generally characterized as the displacement of the rehabilitative ideal with an emergent "just

desserts” model in the past 15 years. In this span, there has grown an increasing willingness on the part of the public and their elected representatives to “treat children like adults” for violations of at least some criminal laws. This broad cultural change has not only translated into specific policies related to waiver and other “accountability-based” sanctions, but importantly, a general increase in the prosecutorial role in delinquency case processing. Thus, in the language of the court community paradigm, developments which have, in part, emerged from outside the court organization proper have substantially reorganized the cultural orientation, resources, and power distribution of court workgroups. As discussed further subsequently, these changes have produced some unintended consequences for delinquency case processing in certain court community contexts.

COUNTY CHARACTERISTICS

Michigan is a large mixed industrial state where there are vast differences among the counties in terms of economic stability, racial and ethnic characteristics, poverty levels and law enforcement. These characteristics have had pronounced consequences for the development and maintenance of the juvenile justice system.

MetroA

MetroA County is a large industrial county of 2.1 million people. Although its median household income of \$32,382 is close to the state median, it experiences frequent up and down economic cycles. The overall poverty level of 20.6 percent is close to the state average, but its child poverty rate is 34.8 percent, the highest rate of any of our twelve counties. Moreover, in the central city of the county, the child poverty rate is 46.2 percent, one of the highest in the United States. The percent persons of color is 44.3 percent compared to 18 percent for the state, and, in the central city, the percentage youth of color is 86.5, primarily African American. Like many other industrial counties in the Midwest, there was a large immigration of Europeans in the early 20th Century followed much later by a migration of African Americans from the South before and during World War II. With the economic declines of the 1970s and 1980s, racial tensions grew and whites exited the central city. As a result, it is not surprising that two out of three children live in “distressed neighborhoods.”³ There is marked racial segregation between the city and the remainder of the county, with economic power largely in whites’ control and greater political power held by blacks.

³ City Kids Count. Data on the 50 Largest Cities. 1998. Baltimore: Annie E. Casey Foundation.

The overall juvenile arrest rate of 38 per 1000 youth is far below that in NonMetroA (112) or MidMetroA (114), probably a reflection of policing, since the arrests for property crime are very low in MetroA. However, the violent crime arrest rate (3.98) is closer to that of the other two counties, 2.87 and 5.23 respectively. Minority overrepresentation in the juvenile justice system is high in MetroA, as we point out subsequently. MetroA also has a high rate of single mothers and an adolescent pregnancy rate of 38 per 1,000 15-17 year olds. The child death rate is among the highest of any county in the state.

MidMetroA

MidMetroA County is a mixed industrial county located in the center of the state, with a population of a half million and one large city where the court is located. The median household income is \$39,240, which places it in the highest quartile in the state. Its overall population of color is 11 percent, but its youth population of color is 14 percent. The poverty level overall is 9.6 percent, but, again, child poverty is higher at 14.1 percent. It has a relatively high birth rate for adolescent mothers, 35.9 per 1,000 15-17 year olds, but its child death rate is 22.2 per 100,000 youth aged 1 to 14, one of the lowest in the state.

The arrest rate for juveniles is high, as we have already noted. In the mid-1990s, in response to some property and nuisance crime by juveniles, the police were instructed to arrest all youth and bring them to court, not to "warn and release" them. The violent crime rate is 5.23 per 1,000 youth, and the property crime rate is 31. The processing of juveniles has increased rapidly in recent years, especially that of youth of color. As a consequence, the county has one of the highest rates of minority overrepresentation in the state. At the same time, MidMetroA has long been a leader in the development of child welfare and community-based juvenile justice services. As a result, most youth processed through the court remain in the county except for the high rate of placement of youth of color in state institutions and the waiver of a very large number into the adult system.

NonMetroA

NonMetroA is a small county in western Michigan with a population of less than 200,000. It has a median household \$32,718, which is near the state average. The overall poverty rate is 15.4 percent, but the child poverty rate is 23.7 percent. Of the total population, 16.2 percent are persons of color, but among children and youth, 25.4 percent are persons of color. The adolescent pregnancy rate is quite high at 41.9 per 1,000 young women aged 15 to 17, as is the child death rate of 31.3 per 100,000 youth aged 1 to 14.

The overall juvenile arrest rate is 112.44 per 1000 youth, which is relatively high, but it is primarily property crime since NonMetroA's violent crime arrest rate is 2.87. Like all counties in Michigan, there is an overrepresentation of youth of color in the justice system, but it has not committed large numbers to the state. One of the reasons is the high cost of residential care, for which they have to pay fifty percent or more. As a result, there appears to be some tendency to waive more juveniles to the adult court for trial. There is no cost to the county for placement in adult prisons.

COUNTY DISCUSSION

Drawing on observations, interviews with court actors and official documents from three counties, we explore how legislation, court organization, resources, and court community characteristics define and differentiate patterns of juvenile justice administration in Michigan.

Legislation

The organization of decision making in juvenile justice is influenced substantially by legislative initiatives. The juvenile code is the most prominent variant of such legislation, however, other federal and state legislation related to funding and specific issues (i.e. waiver) is also important. The impact of legislative changes on case processing or management outcomes generally occurs by altering procedural rules, resource structures, and the distribution of power and responsibility in the court. In Michigan, major revisions to the juvenile code during the 1990s produced changes of each type. Their primary thrust involved empowering prosecutors to play a more prominent role in decisions about the jurisdiction (i.e. juvenile vs. adult) where delinquency cases should be handled and expanding the eligibility criteria for juvenile waivers to the adult court.

Figures 4.1 through 4.6 present data from the Michigan Department of Corrections (MDOC) that seem to confirm, at least indirectly, the impact of these legislative changes on the frequency and characteristics of juvenile waiver decisions in the state.⁴ These data reveal considerable growth in the annual commitments of youthful offenders to Michigan prisons subsequent to the passage of this legislation. Additionally, they reveal a broadening of the range of offenses for which youthful offenders have been incarcerated and a slight increase in the proportion of commitments involving property crimes.

⁴ These data reflect the sentencing of individuals who were under 18 years old at the time of their committing offense to the Michigan Department of Corrections. It should be noted that some offenders were not actually confined in prison until their 18th birthday or later.

Interestingly, both of these trends appear to be confined to courts outside of Michigan's major metropolitan area, where the overwhelming majority of youthful offenders have been committed to the MDOC for a relatively small range of serious person offenses. The average sentence length for juveniles committed to MDOC has also declined, a trend that partly reflects the fact that prior to the passage of Michigan's expanded waiver legislation, a larger proportion of incarcerated youthful offenders were serving life sentences. While it is not possible in these data to identify the offense histories of youthful offenders, these factors suggest a pattern where larger numbers of youthful offenders have been committed to the Michigan Department of Corrections for increasingly less serious offenses. Indeed, an increasing proportion of commitments have been the result of probation violations, especially of the technical variety, rather than those resulting from new offenses. It is evident from these data that legislative initiatives have significantly influenced the organization of decision making and subsequent case processing in Michigan's juvenile justice system.

Figure 4.1: Youth Committed to Michigan Prisons

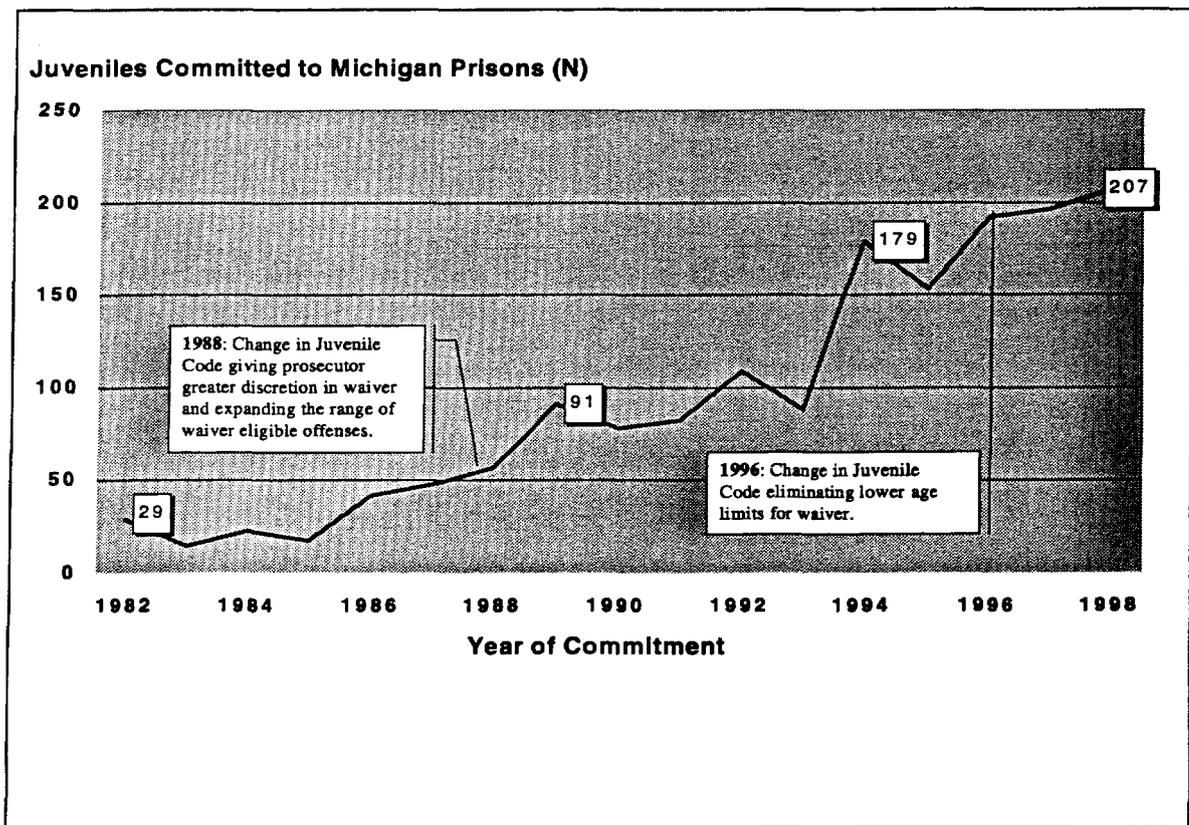


Figure 4.2: Range of Offenses Resulting in Juveniles' Commitment to Prison

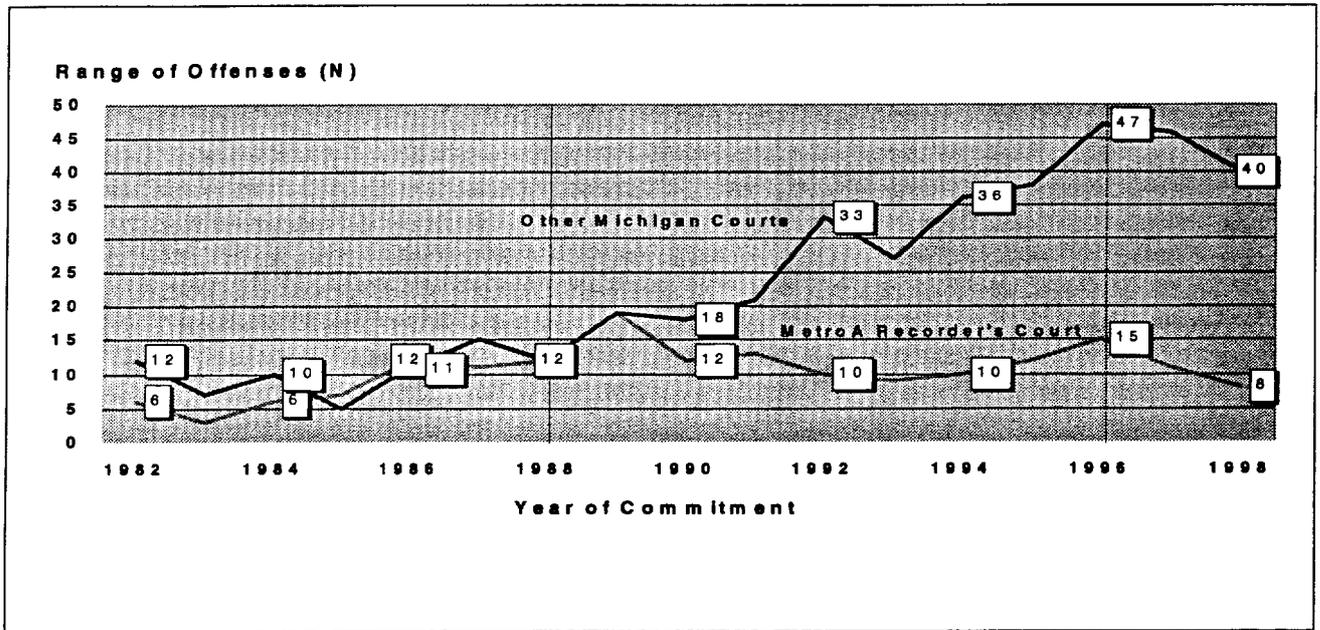
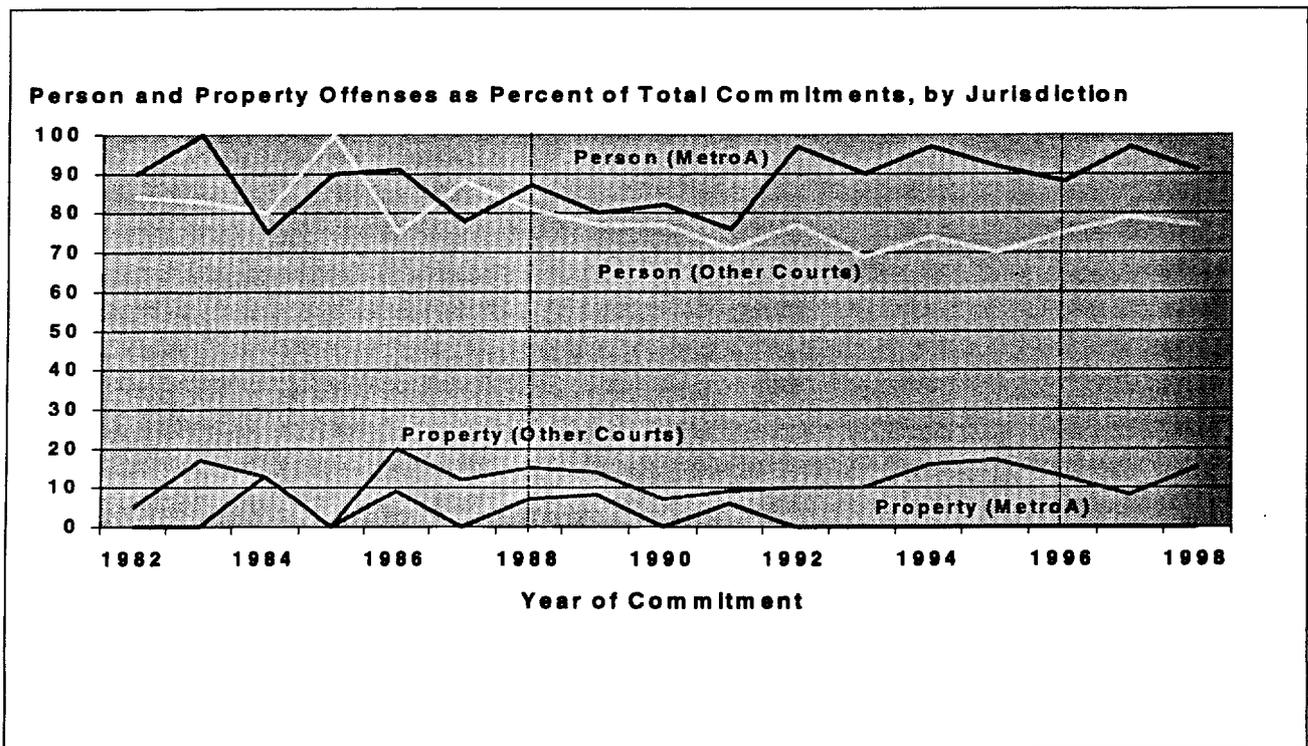


Figure 4.3: Commitments to Prison for Person vs. Property Crimes



72 74

Figure 4.4: Average Sentence Length for Youth Committed to Michigan Prisons

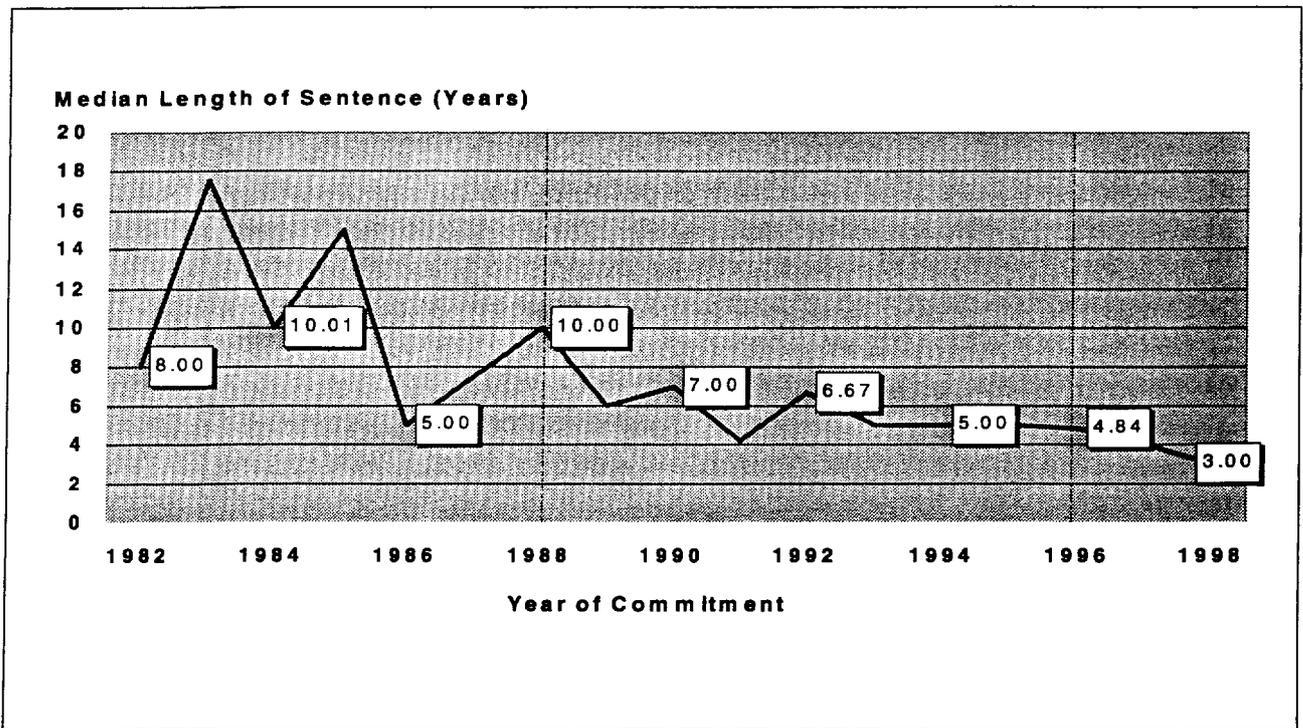
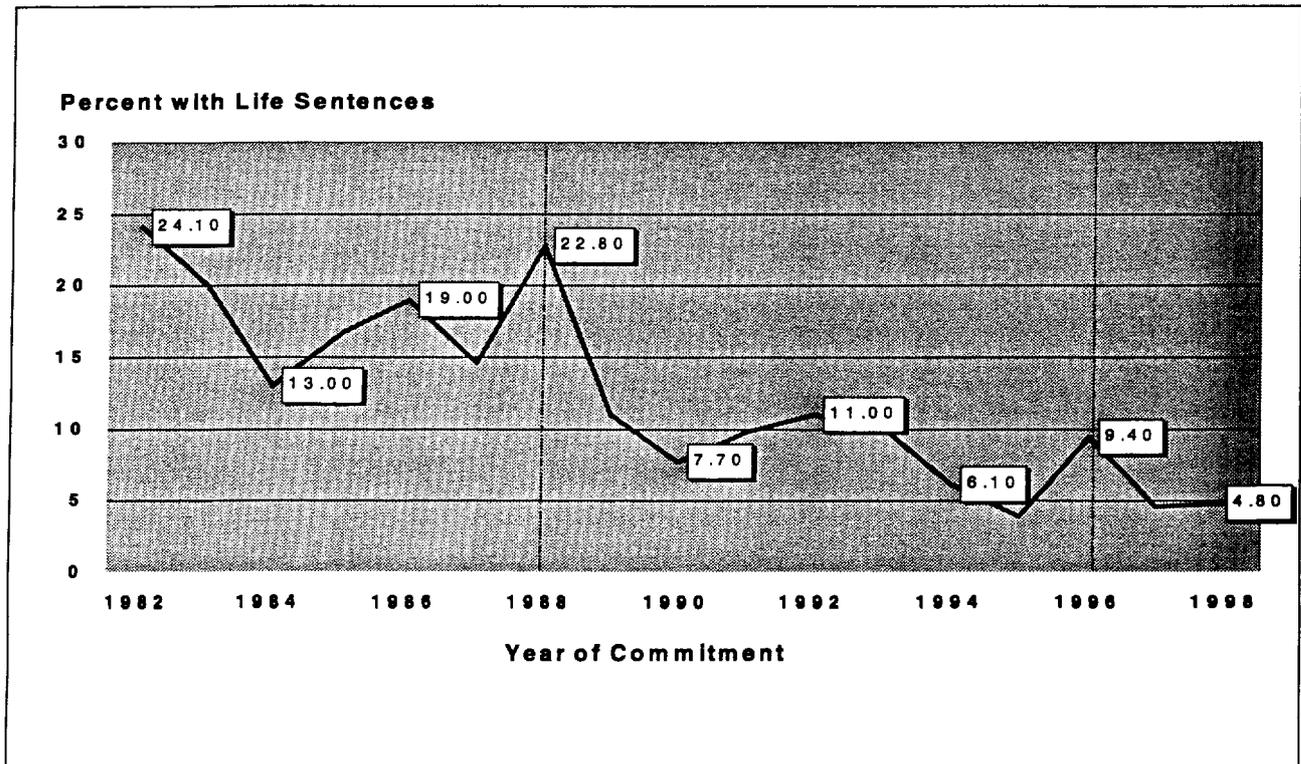
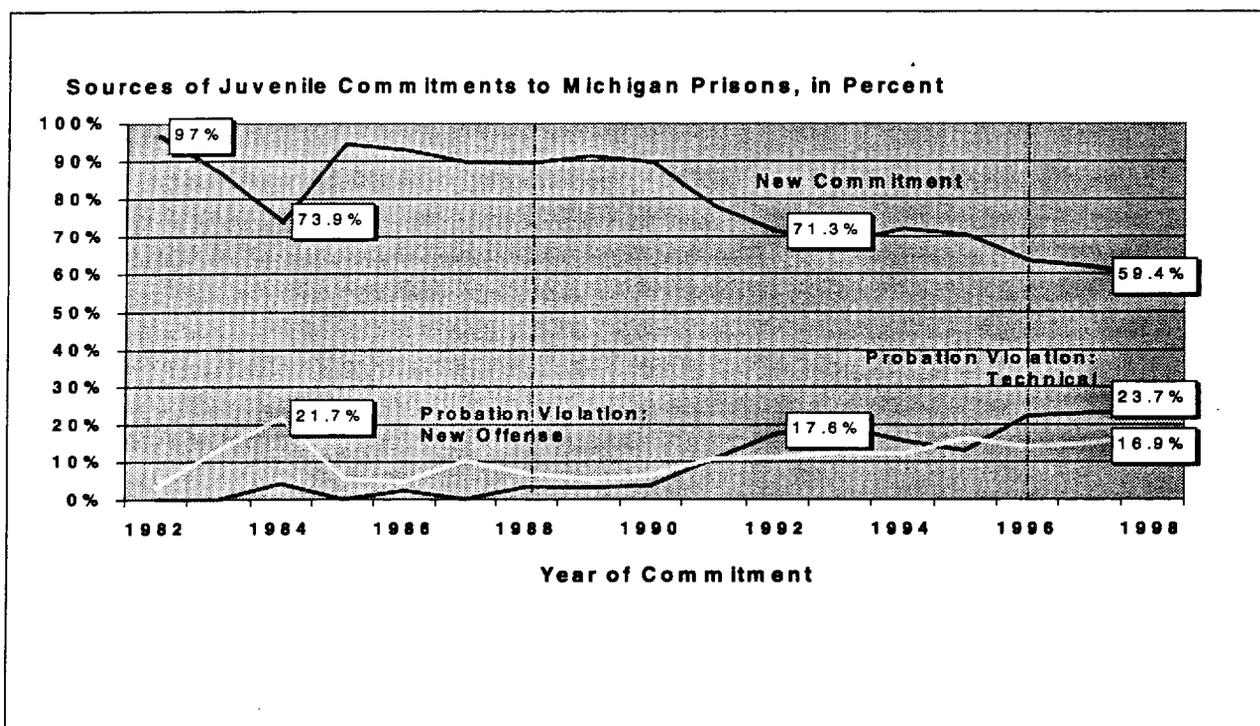


Figure 4.5: Percent of Youth in Prisons Receiving Life Sentences



75 75

Figure 4.6: Sources of Youth Commitments to Michigan Prisons



Conversations with juvenile court actors in different counties also confirm the impact of these legislative changes on the organization of decision making and court practices. A judge we spoke to in NonMetroA county suggested that while recent legislative changes have not had any direct impact on his approach to case processing, they have significantly altered the operation of the court and its handling of delinquency. Specifically, the legislation reorganized case processing stages, reducing the role of the judge in early processing decisions and eventual placement. In this judge's opinion, the change has restricted his ability to become involved in certain cases or to have a meaningful impact on their processing, as the trajectory is already established before it comes before him. Other judges across the state have complained that their general ability to exercise discretion in juvenile justice administration has been significantly curtailed by legislative changes.

Finally, code changes are not the only legislative initiatives which impact juvenile justice administration. Equally important are changes which affect the organization of the court system (i.e. Public Act 388, discussed above) and changes which reorganize the continuum of service resources. In 1998, a public act created a county-level juvenile agency in MetroA county, significantly shifting responsibility for providing juvenile justice services (i.e. detention, assessment, treatment programs, etc.) from the state system (FIA) to the county. Technically, this act requires that MetroA County provide or contractually arrange a program of supervision and care for county youth who are adjudicated delinquent. Substantively, as discussed further in the resource section, this act has eliminated a somewhat peculiar

74 76

fiscal arrangement which existed between MetroA County and FIA since the mid-1980s, resulting in a considerable reorganization of juvenile justice services in MetroA.

Court Organization

The transition to the family court model has been gradual and, to some extent, has proceeded without significant problems. In MidMetroA County, the Family Court's Annual Report for 1998 was aptly titled, "Year of Transition." In its motivational cover letter, the chief judge suggests that the court and its personnel, "did not merely change the way [they] process cases," as a result of the reorganization, but "[they] became a new court committed to, and capable of, better serving the families of this community." Still, none of the counties in our sample have fully completed the reorganization. For example, many family division judges in MidMetroA County currently hear only domestic relations or delinquency and abuse/neglect cases. The objective of the transition is to achieve full integration with all judges handling proportional shares of family division cases. However, some are concerned that the creation of the family division will divert attention and leadership toward court operations and away from court programs.

Indeed, conversations with decision makers in other counties indicated some level of concern with the practical implications of this transition. For example, some court officers are "learning on the job" as they handle delinquency cases for the first time. This is especially true of circuit court judges assigned to the new family division, many of whom are accustomed to adult criminal and civil court procedures. Apparently, some have not easily adjusted to the philosophy and practice of juvenile court administration. According to one official in the MidMetroA County court, judges from the circuit court who now rotate in the delinquency docket "have a hard time wearing the social worker hat." He explained that "they come from a lawyer and sentence driven culture [and] they want sentencing guidelines, not individualization of treatment." Rather than delinquents with specific developmental characteristics and rehabilitative potential, he continued, such judges too often "see kids as mini-adults" and as defendants in an adversarial proceeding.

In NonMetroA, representatives we talked to noticed both potential problems and improvements related to the transition to the family court model. According to one official, neither judges nor prosecutors becoming newly involved in delinquency seem to view the transition as a redefinition of their roles. For judges, the changes have primarily involved "moving the juvenile court up to the formality of the adult system rather than the adult practitioner adjusting to the philosophy and practice of juvenile justice." Thus, while this was not an explicit intention of the reorganization, it appears that, in practice, traditional juvenile justice philosophies may not be prioritized within the new family court model. On the

other hand, a judge we spoke with suggested that the four judges in the family division, two of whom worked previously as circuit court judges, are all generally supportive of the rehabilitative ideal and share a similar approach. He referred to this orientation as the "social justice model," an approach which prioritizes the social and personal needs of individual juveniles and their families. It is important to point out that two of these circuit court judges were previously contract (defense) attorneys in juvenile courts and, therefore, were not unfamiliar with the distinct characteristics of the juvenile justice system. As discussed elsewhere in this report, our survey data reveal that defense lawyers are far more likely than judges, prosecutors, and probation officers to support treatment-oriented responses to delinquency.

Prosecutors, by contrast, were often considered problematic administrators of juvenile justice by informants we spoke with, at least with respect to the traditional goals of treatment and rehabilitation. Indeed, our survey data also confirms that prosecutors are the least likely, by far, to express rehabilitative ideals. This was seen as especially important among our informants in light of prosecutors' increasingly central role in juvenile justice decision making. In one court officer's words, "prosecutors are still prosecutors," and this legislation has simply empowered them with greater influence and discretion. The chief prosecutor, he says, is generally a "tough on crime type" who has worked hard to cultivate this image. The court has attempted to draw prosecutors with juvenile experience, apparently in an effort to retain aspects of the traditional rehabilitative ideal and balance the trend toward an increasingly adversarial and otherwise adult-like environment in delinquency case procession. Still, some viewed this law enforcement orientation among prosecutors as a benefit to the juvenile justice system, especially for its due process implications. As prosecutors become more involved, one respondent believes that objectivity will increase and that, over time, this will contribute to an improvement and greater balance in the delivery of delinquency services.

It is too early to conclude what impact the ongoing reorganization of Michigan's courts will have on justice administration. However, it is important to recognize the impact of court organizational change on decision making. Juvenile courts, like all viable organizations, are "living" and thus evolving social phenomena, subject to the constant and multi-directional influences of economic, political, and cultural changes originating from within their immediate institutional realm and beyond. In so far as these changes occur at different times and in varying ways across court contexts, we should expect court organization to be a constant and dynamic differentiating factor in juvenile justice administration.

Resources

As noted in the state summary, the juvenile justice system in Michigan is a jointly operated state and county system. The majority of juveniles arrested for delinquency remain under the authority of the

court (county), which may provide informal dispositions, probation services, and a variety of community-based and residential services. In most cases, the state's involvement in juvenile justice administration has been limited to providing a source of funding for local services. However, the state also operates several juvenile treatment facilities and contracts with private providers for residential treatment resources which individual counties are required to use for some offenders (i.e. serious) and may choose to utilize for others. This resource, however, is very expensive, causing many counties to pursue sanctioning alternatives to confinement in state institutions.

Courts in Michigan do not equally experience the scarcity of resources. For example, MidMetroA County is recognized throughout the state for its diverse array of delinquency service (i.e. correctional) resources and for model community programs that it has developed during the past quarter century. What distinguishes MidMetroA County is its array of court-supervised and county- or city-run programs, allowing it to utilize residential facilities more selectively. The largest proportion of adjudicated delinquency cases processed in MidMetroA County receive some type of in-home intervention, typically one of several probation dispositions. The court operates four in-home care programs and utilizes an unusually large number of private and out-of-state residential placements for more serious and chronic offenders or delinquents with special needs.

When asked why the county utilized so many out-of-state and private resources, officials in the court gave several reasons. First, there is the desire to maximize the expediency of placement and limit the amount of time juveniles spend waiting in detention. MidMetroA has established relationships with these facilities to utilize their space when in-state facilities are unavailable. While there are 69 beds in detention, the facility is often at or beyond capacity, especially in more recent years.

**Table 4.1: MidMetroA County Detention Admissions, 1994-1995
thru 1998-1999**

Year	Annual Number of Admissions			Average Daily Census
	Males	Females	Total	
1994	1228	182	1410	54.4
1995	1265	244	1509	58.8
1996	1259	288	1547	59.4
1997	1333	268	1601	76.6
1998	1402	316	1718	81.2

Source: Annual Court Reports for Select Counties, 1994-1999.

Thus, out-of-state placement options keep caseloads more manageable. Additionally, out-of-state and private out-of-home service resources which provide specific treatment and intervention programs are in some cases “the best fit” among available placement options. An example one official gave was a facility in Pennsylvania which has a continuum of services – especially for mental health and sex offenders – which the court often requires. Additionally, twenty percent of the current out-of-home service caseload is made up of delinquent girls, a population requiring unique delinquency service resources. The important point here is that MidMetroA has developed a diverse continuum of service resources, many of which are county operated and thus less expensive. This flexibility allows the county to retain an ability to purchase more costly delinquency services from state and private providers for particular types of offenders. Like NonMetroA, MidMetroA may also save money by waiving youth to the adult system. This is difficult to confirm with available data, however, it is evident from the data table that MidMetroA attempted to waive a large number of youth between 1995 and 1998, especially after the “designation” legislation was passed.

Although most disposition services for delinquents were provided in the community, MidMetroA did commit substantial numbers of youth to the state for placement in training schools, especially youth of color. We lack information for the period of 1995-1998, except for 1997 when 90 youth were committed, including 56 to county-funded residential placements, as noted in Table 4.2. The commitment rate for youth of color was 1128 per 100,000 versus 78.2 for white youth, a very large difference in rates.

Table 4.2: MidMetroA County Dispositions of Adjudicated Delinquents

Year	1995	1996	1997	1998
Probation	481	436	433	486
Residential Placements(County Funded)	10	18	33	56
Residential Placements(TANF Funded)	29	27	23	34
Waivers to Adult System	20	87	89	32

MetroA has utilized detention extensively, both for pre-adjudication control and for custody of adjudicated youth until a state residential placement becomes available. However, detention numbers declined substantially after 1994 because of federal court orders regarding the facility, which was then replaced in 1999. Thus, the year-to-year fluctuations shown in Table 4.3 were more related to the court order than to arrest or adjudication rates. This provides another illustration of the impact of resources on the processing of youth in a county’s juvenile justice system.

Table 4.3: MetroA County Detention Admissions, 1994-1995 thru 1998-1999

Year	Annual Number of Admissions		
	Males	Females	Total
1994	3716	598	4314
1995	2933	439	3372
1996	2484	514	2998
1997	2477	582	3059
1998	1296	290	1586

Source: Annual Court Reports for Select Counties, 1994-1999.

Another example of how the availability of resources may influence juvenile justice administration is provided by MetroA County. In Michigan, counties have historically been required to pay half of the per diem expense of residential placement. The remaining portion was paid by the Child Care Fund administered by the Family Independence Agency. In order to control expenditures, the Child Care Fund for each county was capped. Beyond this limit the state ceased to match funds and counties were required to pay the full remaining cost of residential placement or of other resource utilization. Counties with limited budgets were thus discouraged from placing youth unnecessarily or for long durations in state training schools. MetroA County, however, had an unusually high cap on its Child Care Fund which encouraged reliance on state training schools. In 1999, the legislature removed the cap on the Child Care Fund, thus eliminating this particular fiscal incentive, but, at the writing of this report, information from the year 2000 is not available. Researchers have pointed out that in the past ten years, MetroA County committed youth to state training schools at much higher rates than counties with similar and more serious juvenile crime problems. MetroA also committed youth with low risk scores to expensive state institutions. Clearly, out-of-home placement was a fiscally attractive alternative in this specific resource scenario (Sarri et al., 1998).

Recent changes in the organization of MetroA County juvenile justice services have eliminated this special funding circumstance, and, not surprisingly, county commitments to state training schools have declined. In 1998, a public act created a county-level juvenile agency in MetroA, shifting nearly all responsibility for providing juvenile justice services to the county. MetroA County is required to provide or contractually arrange a program of supervision and care for county youth adjudicated delinquent. This change has resulted in a radical reorganization of juvenile justice administration in MetroA County. The MetroA Juvenile Agency (formerly the MetroA Department of Community Justice) has developed a "System of Juvenile Justice Services" in collaboration with other city, county, and state child-serving

agencies in an effort to provide a comprehensive and effective continuum of delinquency services (MetroA County Department of Community Justice, 1999). Most notably, the new agency has contracted with private entities to operate several Juvenile Assessment Centers and Care Management Organizations in the county. The assessment centers are intended to "provide a single point of access as a gateway into juvenile justice resources," while the Care Management Organizations and their subcontractors deliver the specific (i.e. prescribed) services. Interestingly, in the wake of this reorganization of MetroA County delinquency resources, the Care Management Organizations are strongly encouraged to rely on community and neighborhood-based services as alternatives to costly residential placement. While data on residential placements in MetroA County since 1998 are not available, it is likely that a reversal of the trend between 1995 and 1998 has occurred, partially in response to this change in funding arrangements. Indeed, conversations with county officials and other anecdotal evidence suggest a sharp decline in commitments to state juvenile correctional institutions since 1999. Dispositions of adjudicated delinquents for previous years are shown in Table 4.4.

Table 4.4: MetroA County Dispositions of Adjudicated Delinquents

Year	1995	1996	1997	1998
Probation	1546	1634	1506	1501
Residential Placements (State Wards)	879	1028	1129	1076

Source: Annual Court Reports for Select Counties, 1994-1999.

In 1987-88, court officials in NonMetroA realized they were spending \$750,000 per year for commitments to state training schools. They were not satisfied with the return on this outlay of money and decided to reallocate the dollars and spend less whenever possible. An official gave an example of a specific case which encouraged the court to place more emphasis on fiscal priorities and cost-benefit relationships. There was a delinquent who was kept in residential placement for 4 years while receiving no home visits. The county was paying \$400 per day for these services and, after 4 years, the delinquent was no better off. The court felt that the case was a loss on multiple fronts; "His life was wasted and the money was wasted." The court requested that the state release the youth and has since worked toward spending more wisely.

Spending was reduced in several ways. First, borrowing from the MidMetroA County model, NonMetroA developed several local alternatives to costly state-operated residential treatment facilities. Primary among these initiatives is intensive probation, which has taken the place of residential placement for many of their mid-range and serious delinquency cases. The county receives 50 percent

reimbursement from the state for in-home care and, because of their limited budget, takes advantage of this resource by maximizing its intensive probation caseload. An increase in the use of probation is evident between 1995 and 1997 (see Table 4.5).

Those delinquents committed to the state were allowed to remain in confinement for shorter durations. To this end, the county demanded faster results, and, even in the absence of these results, youth were removed and placed in community programs. Finally, in a further effort to monitor and regulate the use of scarce delinquency service resources, this county developed a Placement Review Committee (PRC). The committee developed and oversaw a formal process where probation officers made a recommendation for residential placement. An oversight committee composed of probation supervisors evaluated each recommendation. The PRC started in 1990 and was dissolved around 1998 with the new Family Court legislation.

Table 4.5: NonMetroA County Dispositions of Adjudicated Delinquents

Year	1995	1996	1997	1998
Probation	173	302	243	N/A
Residential Placements	162	159	140	N/A
Waiver to Adult System (Traditional)	13	14	6	N/A
Waiver to Adult System (Automatic)	-	-	4	N/A
Waiver to Adult System (Designation)	-	-	27	N/A

Source: Annual Court Reports for Select Counties, 1994-1998.

The issues of resource availability and fiscal priority in juvenile justice administration are somewhat troubling in light of their implications for the needs and rights of juveniles. To be sure, fiscal constraints may dictate case processing to an extent where these rights are abridged or, at least, where otherwise similar offenders in different locales receive sanctions and treatment which vary excessively and inappropriately in severity and quality. For example, a court official in NonMetroA suggested that minority youth are committed disproportionately to state-sponsored residential facilities because they are more often TANF-eligible, in which case the county and state are not required to pay the cost of confinement.⁵ Another official in this court community confirmed that, "the biggest thing in placement is

⁵ In this scenario, federal funds can be used to pay commitment costs. This situation also reflects the uniqueness of Michigan's juvenile justice system. TANF-eligibility is only relevant because juvenile justice administration is operated under the auspices of the state's social service agency. If the juvenile justice system was operated through the Department of Corrections, for example, TANF-eligibility would not be a factor in case processing.

cost, so if you get a co-pay, you get committed.” While NonMetroA does not report the proportion of commitments subsidized by state or federal sources, data from MidMetroA County suggest that TANF-funded placements may contribute a large share of all residential commitments (see Table 4.2).

This is an attractive resource for poorer counties in particular. When asked why his court had low commitment rates despite its relatively high crime rate, for example, an official in NonMetroA explained with a slightly embarrassed grin that the court is “in the constant pursuit of fiscal responsibility.”

At its extreme, this financial pressure combined with legislative and cultural changes in the arena of juvenile justice administration might lead to decision making which disregards the rights and needs of youthful offenders. Indeed, according to another official in NonMetroA, formally eligible cases were often waived to the adult system to avoid paying costly juvenile commitment costs, even when the characteristics of the offender and pattern of offending did not necessarily warrant this severe sanction. He explained that delinquents are given “one chance” in residential placement and, in subsequent cases of court intervention, whenever eligible by virtue of their offense, a delinquent is waived to the adult court and correctional system. While the informant likely exaggerated the extent of this practice, it is notable as an extreme example of how legislation, resource considerations, and other differentiating factors are reflected in patterns of juvenile justice administration.

Unfortunately, the quality of available data does not allow us to observe this practice empirically. As noted, however, there are data to suggest that counties have become more inclined to waive youth who previously would not have been waived. The increase of technical probation violations among recent MDOC commitments may be an example of this increasing propensity to transfer juveniles to the adult criminal justice system and, as the NonMetroA official suggested, to do so at least partially for fiscal reasons.

Court Community

It was evident from our conversations and observations in the various counties that an equally important influence on justice administration is the court community context. As discussed in the state summary, the court community paradigm of justice research conceptualizes courts as “social worlds, or communities of action and communication” (Ulmer, 1995, p. 589). Court actors operate in an organizational context – the court – which is further embedded in a larger structural and cultural context (Einstein, Fleming and Nardulli, 1988). In each of our courts, we have recognized how developments or conditions in wider institutional and community contexts bear directly on the organization and administration of juvenile justice.

The comments of a judge in Michigan about the court's gradual shift from a rehabilitative ideal to the prioritization of control and punishment offers a useful demonstration of this influence. He felt that judges in NonMetroA had been "whip-sawed" by the legislature and public opinion to be more punitive. "The public is fixated on the act," he explained, "and not concerned with the reasons behind the act." Partially in deference to this communal grumbling, the judge reasoned, legislators proceeded to shift discretion away from judges and toward prosecutors who could be expected to apply a more punishment-oriented model of justice in delinquency case processing.

A similar scenario was observed in MidMetroA County where, initially, at the request of the court, police utilized a procedure known as "street corner adjustment" to avoid intake, detention, and formal processing for many non-serious offenders. This practice ended abruptly when public scrutiny over several high-profile cases pressured the police and juvenile justice system to account for what was interpreted as their inability to curb or control serious delinquency. The police department assembled a list of habitual offenders who had been street-adjusted or released without formal court contact. This list, published in local newspapers, embarrassed the court by its implication that not enough was being done to address delinquent behavior and protect the public. As one official put it, "the court got a bad rap," and in response to this publicity there emerged several formal and informal policy changes.

Generally, these changes have involved an increase in the amount of formal intervention in suspected and adjudicated delinquency cases. One informant explained, for example, that the court and police department have since forged an understanding that detention will accept nearly anyone, regardless of capacity and case characteristics, and police are encouraged to arrest youthful offenders whenever there is cause. These changes in justice administration, at least partially influenced by community pressure, have resulted in this county having among the highest arrest rates in the state. Further, this court processes an unusually high caseload for an organization of its size. While the total number of referrals decreased between 1995 and 1998, the detention population, number of residential placements, and use of waiver in MidMetroA County have all increased over this time span.

Table 4.7 shows the distribution of referrals and petitions in NonMetroA County. Nearly equal numbers of youth were diverted as received a formal petition. Subsequently, this county went on to place an average of 153 juveniles in residential placement each year between 1995 and 1998. The average number placed on probation in that same period was 233 annually, so a high proportion ended up in out-of-home placement.

Table 4.6: MidMetroA County Referrals and Petitions

Year	1995	1996	1997	1998
Diverted	1416	1570	1517	1478
Preliminary Inquiry	2307	2370	2228	2367
Adjusted (Post-Inquiry)	1498	1234	1326	1062
Consent	200	193	277	239
Formal Petitions	524	528	555	606
Transfer of Jurisdiction (County)	228	248	236	260
Total Referrals	6454	6099	5807	5780

Source: Annual Court Reports for Select Counties, 1994-1999.

Table 4.7: NonMetroA County Referrals and Petitions

Year	1995	1996	1997
Diverted	286	322	320
Preliminary Inquiry	255	312	354
Consent	304	274	237
Formal Petitions	305	259	355
Transfer of Jurisdiction (County)	97	84	67
Total Referrals	1337	1314	1401

An official in the MetroA County court provided another example of the significance and complexity of ecological influences on juvenile justice administration. While explaining the multitude of reasons for which a youth may be placed in a residential facilities, even when case profiles do not appear to warrant this amount of constraint, the court officer referred to a number of cases where children and adolescents are essentially abandoned at the court, "left on the benches in the hallway" by parents refusing to take them home. In this scenario, the child has committed no offense, but their parents claim not to be capable of caring for them and demand court intervention, even in the face of warnings that they might be charged with abuse and neglect. In such cases, and regardless of actual evidence regarding the existence of neglect or delinquency, the court is left with no option as to whether or not the child should be placed out-of-home. The characteristics of the case, in the formal sense, make little difference. Of course, this practice extends from a number of community-based problems which the juvenile court is not

specifically intended to remedy. The court is left with few options in its handling of such cases. For our purposes, the important point is that these cases are not likely distributed evenly across court contexts, thus differentiating patterns of juvenile justice administration.

A comparable situation was observed in NonMetroA. An informant in this court suggested that a key weakness in the system is its dependence on the home situation. Not only do many kids come from dysfunctional homes, but the court is also dependent on volunteers to provide foster homes for youth who do not require placement in a residential facility but who cannot be returned to their parents. This, he suggests, is especially true in the case of African American youth. NonMetroA's juvenile justice system is in critical need of foster homes for non-serious African American delinquents. Because the home situation is problematic, and in the absence of foster care placement resources, many of these youth remain in residential placements for longer than is warranted by their offense behavior and other case characteristics. There is an informal racial component to FIA's foster care policy. FIA is "reluctant" to place youth in foster care placements where there is incongruity between the race of the child and parent. Ironically, this FIA policy is based on a principle of diversity. NonMetroA does not operate its own juvenile foster care system and is therefore reliant on FIA for foster placements. The county operated its own system at one time but has since decided to "piggy back" on FIA to avoid the administrative responsibilities. Importantly, this change may have weakened the court's ties to community-based resources and, consequently, its ability to mobilize potential foster care providers.

Currently, the court has resorted to sending African American youth to another city in Michigan for foster care placements, a practice one informant considered an injustice because of the comparative difficulty it presented for maintaining community contacts. Recognizing its dependence on community actors, a judge in NonMetroA indicated that the court has recently appealed to black churches to mobilize potential foster care parents. For a variety of reasons, this effort has largely been unsuccessful. Apparently, a factor contributing further to the lack of community participation in child-serving initiatives is that bright and talented young people typically leave NonMetroA for opportunities in larger nearby cities. This, according to one judge, has created a leadership void in the community which ultimately has implications for juvenile justice administration.

SUMMARY AND CONCLUSION

In this chapter we have suggested that legislation, court structure, resources, and cultural/contextual variables influence the organization and, to some degree, outcomes in juvenile justice administration in Michigan. While it would be desirable to the authors and readers alike to show these relationships empirically, both the quality of available data and the complexity of the proposed relationships make it nearly impossible to do so, at least in causal terms. Our requests for data from each

county of interest in this research were met with varying complete and detailed reports on juvenile case processing. Additionally, to consider trends in juvenile transfer, we obtained admissions data from the Michigan Department of Corrections.

When possible, these data have been used to illustrate how factors (i.e. legislative, court organizational, resource, and community-contextual) operate to differentiate patterns of juvenile justice administration across specific court contexts. Ultimately, however, these effects are best illustrated in the comments made by professionals actually working in these courts and experiencing these influences. Throughout this chapter, we have relied on these insights to complicate our understanding of the factors contributing to the organization and consequences of case processing in juvenile justice. While the differentiating factors discussed here are not exhaustive, they provide some insight into the constellation of forces which actually structure decision making in Michigan's juvenile justice system. Future research will hopefully modify and expand this list, seeking to show with more empirical force how these and other factors operate to influence and differentiate processes of juvenile justice administration. Understanding these complex social organizational characteristics will be critical in efforts to maximize the effectiveness, efficiency, and humanity of modern juvenile justice administration.

CHAPTER 5

OHIO

THE COURT IN THE COMMUNITY: CONTEXTUALIZING THE ADMINISTRATION OF JUVENILE JUSTICE

Ohio is a Midwestern state with large urban industrial counties and numerous rural counties with small populations. It has a long tradition of well-developed services for children and youth in child welfare, mental health, as well as for juvenile delinquents at both the county and state levels. The first juvenile court in Ohio was established in 1902; legislation established the court statewide in 1904, and it also established the first full-fledged family court in 1914. In contrast to many states where state juvenile justice programs are affiliated with the Departments of Corrections or Social Services, Ohio has an independent state agency for juvenile delinquents, the Department of Youth Services (DYS). DYS is responsible for residential services to juvenile delinquents committed to them by county courts and for parole services to those same youth following their release from the state facilities. Eleven state-wide and regional residential facilities are maintained for male youth and one for females. Most of the wide array of services for juvenile delinquents are locally operated by the courts or related community agencies.

The Court of Common Pleas is the court of original jurisdiction for delinquency abuse/neglect, unruly and traffic cases, in contrast to some states where the juvenile court remains a part of the probate court. It has exclusive jurisdiction over any child under the age of 18 years and can maintain jurisdiction until a youth reaches 21. Eighteen urban counties have their own juvenile divisions, and, in the remaining counties, juveniles are served as a part of the total services of the county court. In addition to the elected Judges who often are too few to hear most of the cases, the urban counties have several magistrates who hear the majority of delinquency cases. However, in instances such as "certification" decisions for trial of juveniles as adults, the prosecutors may bring the original charge, but the judges review the transfer decisions. In addition, they may initiate waiver hearings. The local court's relationships with community agencies, schools and private organizations affect operations of the court, the proportion of the youth population who are formally processed, and the provision of services to youth.

Legislative Changes in the 1990s

Similar to other states, in the 1990s Ohio enacted new provisions to its juvenile code which lowered the age for transfer to the adult court to 14 years and increased the types of crimes for which

youth could be bound over for adult court processing along with increasing the roles and authority of prosecutors in filing against juveniles (See Chapter 2). Prior to 1996 the age for waiver was 15 years, and an examination was required in order to try a child as an adult. The new provisions also require that some youth be held in correctional facilities for two years rather than the average of six months. Subsequently, additional punitive sanctions have been added. However, in contrast to other states, Ohio statutes still granted substantial roles to juvenile judges in the certification decisions. Although other events may have influenced the outcomes, the numbers of youth in Ohio who were transferred to adult courts continued to decline during the 1990s. This pattern was associated with the overall decrease in crime by juveniles, especially serious felonies. In 1999, the legislature considered further legislation to mandate sanctions (SB 179) and to link the treatment of juveniles with that of young adult offenders, but no decision was reached on this legislation. The upper age of juvenile court jurisdiction is 18 years, but, if the new legislation passes, services for youth up to age 25 might be linked with juvenile services, primarily in the provision of state residential facilities for juveniles and young adults.

Ohio has mandatory waiver provisions that include not only younger juveniles, but also includes a broader range of offenses. For juveniles who are certified and then convicted, the disposition alternatives are far more limited than they would have been under the earlier legislation. Judicial discretion has also been limited to specific criteria that allow more juveniles to be certified. Despite these changes, the numbers of youth certified has generally declined during the 1990s, perhaps a reflection of the decline in violent and serious behavior in Ohio.

Statewide Programming and Facilities

Statewide, the number of youth committed to the Department of Youth Services (DYS) for institutional placement declined from 2525 in 1990 to 1959 in 1998. Moreover, recommitments of previously discharged youth also declined. However, there was an increase in youth whose parole status was revoked, and they were returned to institutions. Overall, the total decline in state commitments represents a major change from a long-term pattern of increase. As of 1998, youth committed to the state for placement were only 16 percent of all the youth who were adjudicated as felons in the counties. The overwhelming number remained in their home counties and under court jurisdiction. What factors appear to be causes or at least correlates of that decline?

The RECLAIM Program. In 1993, then Governor George Voinovich established RECLAIM (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minors) as a part of his Family and Children Initiative to improve local services so that the state DYS could concentrate on serious and violent behavior. The program actually got underway in 1995 with a pilot in several counties,

after which it was implemented statewide. RECLAIM funded counties for providing services to delinquents in their own counties rather than committing them to the state.¹ Through RECLAIM, the state provides about \$80 million annually to the counties. Programs vary widely depending upon local needs, from group homes and shelters, local residential facilities, secure detention, intensive probation, day treatment, alternative schools, counseling, drug and sex offender services, parenting services, family preservation, monitoring, advocacy, and recreation. Most youth in RECLAIM programs have been adjudicated for felonies with a smaller number for misdemeanors and status offenses. Most youth in RECLAIM statewide are between 15 and 16 years of age, white, in-school and male, although minorities are more likely to be included in the large urban counties. Females were served only for very minor offenses whereas females adjudicated for felonies almost never were represented in the RECLAIM population (LaTessa et al., 1998).

The stated purposes of the program are to:

- a. Provide prevention, treatment and rehabilitation programs for alleged or adjudicated unruly and delinquent youth as alternatives to commitment of those youth to the Department.
- b. Develop effective programs for youth that preserve their rights and dignity. Programs must be productive, humane, and adequately supervised.
- c. The court will monitor and evaluate all programs funded by this grant.

From the evaluation completed by LaTessa (1998), it is not clear that RECLAIM has had as positive an impact on the reduction in state commitments as might be expected, because it corresponded with an overall decline in serious crime in the latter half of the 1990s. There were, however, reductions in expected state commitments of 36 percent.² On the other hand, there is some evidence that it may have had the effect of increasing the total number of adjudicated youth since the total number of youth in all types of residential programs for delinquents in Ohio has not declined, as would be expected with crime rate declines. Youth are now more likely to be held in county public or private residential programs.

¹ RECLAIM has an elaborate structure for the calculation of the funding to be provided to the county. Under it the Deputy Director of DYS averages the number of felony adjudications for state and county over the prior four years. The percentage of Ohio's felony delinquents who come from one county determine the percentage of the pool of money that county receives. In turn, DYS charges each county a daily rate for every day a juvenile spends in DYS that is equal to 75% of the total daily cost for a youth. If the county places a youth in a Community Corrections Facility that is state funded and locally operated the cost is 50% of the daily cost so as to encourage counties to use the latter facilities. Each month a county's total incarceration costs are subtracted from its monthly allocation. Any funds remaining can be used for community-based programs of the county's choosing. Funds may be carried over from one year to the next. The law also provides for commitments for a specified number of very serious felonies to DYS and the counties are not charged for these commitments.

² See E. J. LaTessa, M. G. Turner, M. M. Moon and B.K. Applegate (1998), *A Statewide Evaluation of the RECLAIM Ohio Initiative*. Cincinnati, OH: University of Cincinnati, Division of Criminal Justice.

Successful outcomes were reported for nearly 70 percent of RECLAIM participants, especially for those in substance abuse programs. More than 91 percent had not recidivated to a state institution during the period of evaluation. Regularized monitoring and evaluation remains to be done at the county level. RECLAIM has increased the number of community-based programs available to courts. Several reasons exist to expect that courts might rely on more formal risk and needs assessment processes when referring youth to community resources. First, RECLAIM has encouraged the development of a wide array of resources for youth. Presumably, the court can match youth needs with the programs, making the decision more complex than a referral to a state institution might require. Furthermore, the risks of program failures may be greater, since these programs are local and, therefore, more observable than the out-of-county placement alternatives.

With respect to decision making about referral of a youth for community-based services, less than half of the courts in the state reported using risk or needs assessment in these decisions. Urban courts used them more frequently as we shall note. Courts did, however, report having specific criteria for making a determination of whether to commit a youth to the state or place him/her in the community. Criteria included: harm or injury to a victim, use of a weapon, type of felony, prior commitment to DYS, and whether there was an appropriate program available. Counties expressed concern about the amount of "red tape" involved in securing reimbursements and the lack of sufficient monies to implement the types of community programs they felt that were needed. Courts did work collaboratively with the state in the development and operation of regional residential facilities (CCFs).

Youth Served Statewide in Ohio

Since the youth adjudicated in Ohio are primarily served at the county level, one needs to consider the characteristics of youth served at both state and county levels. We examine the characteristics of youth who are committed to the state. Among the youth committed to DYS, 45 percent were Caucasian and 55 percent persons of color, primarily African American. Overall, 15 percent of the Ohio population as of 2000 are persons of color, a much smaller percentage than in many other states.³ The median age of committed youth was 16 years and 15 percent were female in 1998. All had been committed for serious felonies although there were marked differences in offense patterns among the counties perhaps reflecting community differences. Counties with large minority populations contributed most of the African American youth, so they often ended up with greater disproportionality relative to

³ U.S. Bureau of Census (2001) Preliminary Report of State Data. Washington, DC Department of Commerce.

their numbers in the population.⁴ However, among those committed to the state, no differences existed between white youth and youth of color in the top five types of offenses committed. Aggravated burglary and rape offenses were more common for whites, and robbery and drug trafficking for youth of color. Robbery is primarily a street crime and may well have been associated with drug trafficking. It was the second most frequent offense for youth of color. Counties also varied in the percentage of their felony adjudications for which there was a commitment from a low of less than 10 percent of their adjudications to a high of 25 percent of adjudications. However, other factors apparently influenced those decisions because commitments were not related to the level of felony offenses.

Although the juvenile crime rate, especially the serious index crime in Ohio declined substantially in the late 1990s and the commitments to the state also declined, there is no evidence that the overall placement of juvenile delinquents in residential programs declined. As of 1997, there were 4522 youth in residence of which 3141 were DYS committed youth and 1347 were in detention on the day at which the census was taken. Information is lacking on the numbers of youth that may have been placed in private facilities, in foster care or shelters by local courts, so it is possible that residential placement overall remains static. Factors such as poverty, school exclusion, and family breakup all contribute to out of home placement.

Environmental and Contextual Factors

There are various contextual factors that may influence court input, processes and outcomes. These include crime and arrest rates, proportion of youth living below the poverty line, degree of urbanization, county expenditures for children's services of all types (including education), social and ethnic composition of the population, and family structure. Observing that there were marked differences among the sample counties in the arrest rate per 100,000 youth, we checked the arrest rate in each county for several years. Table 5.1 reflects several patterns of arrest rates over time from 1994-1998.

There are substantial differences among counties but there are also some general patterns. During the 1990s arrest rates increased, but when one looks at the types of crimes for which juveniles were arrested, index crimes, especially violent crimes, declined or remained the same in all of the counties and statewide. Likewise more serious property crime also declined. The increases in arrest rates overall occurred among misdemeanors such as drug abuse, liquor violations, disorderly conduct, domestic violence and "other offenses," all of which are classified by the Uniform Crime Reports as misdemeanors.

⁴ Counties varied in their overall commitment of minority youth, with some as high as 79% and others as low as 20%. Examination of the numbers (64) of African American youth committed in 1998 for aggravated robbery was four times the number (14) of whites committed for aggravated burglary. Yet, the total numbers of the two crimes were nearly identical.

Table 5.1: Arrest Rates in Selected Ohio Counties Per 100, 000 Youth 10-18

	1994	1995	1996	1997	1998
MetroB1	9,979	10,496	11,351	11,039	9880
MetroB2	17, 007	16,482	20,006	9,458	8696
MidMetroB	9,698	11,636	11,238	11,577	14652
State of Ohio	8,920	8,933	10,102	9,167	N.A.

Source: Snyder, H. and Finnegan, T. (1999). "Easy Access to FBI Statistics." Pittsburgh, PA: National Center for Juvenile Justice. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

MetroB2 County showed the largest decline in both 1997 and 1998. While those declines may appear an aberration and there was some decline in police reporting rates, there also were declines in almost all of the offense categories. On the other hand, arrests grew substantially in MidMetroB County in 1998. In the latter, increases in arrests for drug and liquor, domestic violence, disorderly conduct and the catch-all "all other offenses" grew the most rapidly in 1998. As we shall note subsequently, arrest rates are not necessarily reflected precisely in juvenile court filing patterns, suggesting that other factors influence the volume of cases processed by the court.

Another contextual factor that receives attention is the percent nonwhite in the juvenile justice system. The Juvenile Justice and Delinquency Prevention Act (Section 223(a)(23) and 28 CFR31.303(j) states that states which accept federal grants under the Act are to work toward reducing the overrepresentation of nonwhite youth in the justice system, especially in incarceration. It was noted previously that 55 percent of those committed to DYS in Ohio were nonwhite in a state where the total non-white population was 15 percent. In the sample counties, the percent of youth of color committed to DYS was higher than the total non-white population: 32 percent in MetroB1, 26 percent in MetroB2 and 23 percent in MidMetroB1. In each of those counties, the percent of youth of color among the youth committed to DYS was between 54 and 68 percent.

Another factor, along with race, that may explain more cases being processed by courts is family structure and poverty. In all of the counties, youth at risk for delinquency were more likely to come from single mother families with incomes at or below the poverty level. They were also at risk for school problems and dropping out prematurely. County resources for children's services also vary among counties, but, in the case of the sample, counties the variance was relatively small.

COURT STRUCTURE AND ROLES IN SELECTED COUNTIES

Decision making and processing of juveniles is the primary responsibility of the juvenile court in Ohio as in other states. Of the three courts studied in Ohio, MetroB1, MetroB2 and MidMetroB, there were important similarities that were reflective of the overall court structure of the state and of the statutes that provide the mandate and direction for court decision making. Figure B (See Appendix A) outlines the processing steps for juvenile cases in Ohio, although there are substantial inter-county differences in the specific structure and practices of the courts. Ohio has had a decentralized structure with considerable autonomy of the counties with respect to services. We now examine each of the counties with respect to their structure, case processing and roles for staff.

MetroB1 County

The MetroB1 Juvenile Court is one of the oldest juvenile courts in the United States, occupying the original structure built in 1932, although now it has many regional offices and facilities located both within and outside the county. The character of Metro B1 County has changed markedly since the court's beginning in 1902. The county received thousands of immigrants from central and southern Europe who settled in the early part of the 20th Century. Then, during World War II, the war production demands brought many African Americans from the South to work in industries in the county. The African American population continued to increase after the war. Racial and ethnic segregation became very pronounced and vestiges still remain in the level of housing segregation in the city and suburban areas. This has had consequences for delinquency processing and services despite the substantial efforts of various agencies to reduce institutionalized racism.

One third of all households are headed by a single mother. Twenty-three per cent of the population are children below 18 years of age. Twenty-five percent of the children are classified as below the poverty level. Thirty-two percent of the youth population are children of color, far in excess of the statewide proportion.

The Juvenile Court is a very large organization with 585 full-time equivalent staff. There are eight judges and 21 magistrates, a court administrator, 90 probation officers, 13 prosecutors and 16 public defenders. In addition, there are detention staff, administrative and support personnel, research and evaluation, and medical services. In addition to the central complex, the court has 10 regional offices, most of which provide intake and probation services, a drug court, five shelters, a residential Youth Development Center, 8 village sites, central detention, 2 satellite detention facilities, and it contracts additional private detention services in another county 75 miles distant. Funds from RECLAIM OHIO,

the general fund, the federal government, the Ohio Departments of Community Rehabilitation and Mental Health all provide for a wide variety of services, including residential treatment, community outreach, wraparound and counseling, alternative schools, day treatment and school-based services, reintegration, life skills, substance abuse, restitution, truancy, and electronic monitoring services. The court budget for fiscal year 2000 was \$31.3 million of local funds plus \$14.5 million from Reclaim Ohio. The Court has a Community Diversion program begun in 1998 that uses volunteer magistrates in 32 suburban communities to hear first time unruly and non-violent misdemeanor cases as a part of its community diversion program.

Intake, Processing, and Structured Decision Making

Approximately 73 percent of the cases entering the MetroB1 Juvenile Court are referred by a police agency, and the only other appreciable numbers are referred by parents and the Board of Education. When a youth is arrested by police, they call Detention to determine if there are outstanding warrants. If none are reported and the offense charged is not a serious felony, the officer has discretion about bringing the youth to detention. Police may take youth to regional intake offices for processing, and depending upon the seriousness of the offense or outstanding warrants, the youth is or is not transported to central detention. He or she may call the parent and if the parent comes to pick up the youth, he or she is informed that a complaint will be filed at the juvenile center. If the parent is not reached, the police transport the youth to a branch intake center or central detention where intake officers process the youth, setting a court date within 24 hours. The intake officer makes a determination as to whether the youth is a mental health or suicide risk for which there is a mental health screening. All other cases in detention are heard within 24 hours by an intake officer and a representative from the prosecutor's and public defender's offices.

Detention policy and practice became problematic during 1998-2000 when police could exercise broader discretion about detention, and also prosecutors became more active in the charging process as a result of the changes in the Ohio Juvenile Code. This changed practice resulted in a marked increase in detention admissions. The lack of systematic assessment at detention intake probably also contributed to the rapid increase in out-of-home detention. Youth in detention could be held in home detention, in special shelters or in the central, more secure detention facility. The latter held the majority of detained youth. As a result of the increased detention admissions, there was not a corresponding increase in facilities so the average length of stay declined from 19 to 14.3 days. Space was then leased in a private out-of-town facility. With this additional space the average length of stay increased to 17.

The numbers of cases that were filed or officially accepted (petition filed) following an initial hearing varied little during the 1990s as the findings in Table 5.2 indicate. Only 1998 saw a substantial increase. Of the total numbers of cases, approximately 25 percent each year are processed as unruly. Females compose 22 percent of the delinquency cases, but in the case of those classified as "unruly," 40 percent are females. The courts also process abuse/neglect as well as traffic cases and applications for custody, but these data are not included in Table 5.2.

Although we do not have complete information on processing, during 2000 there was a significant increase in residential placements of adjudicated youth, but primarily in private, not DYS, facilities. Unexplained are the reasons for the substantial increase in the numbers of formal charges, in cases of "unruly" Court staff expressed concern about the increasing numbers of non-white juveniles being processed, especially to residential placement. These shifts may reflect short term fluctuations more than significant changes in organizational practices, but that could not be determined.

Table 5.2: Characteristics of Juvenile Cases in MetroB1 County

Year	Delinquency		Unruly		Detention Admissions	DYS Commitments	Transfers*	Out-of-home placements**
	Filings	Charged	Filings	Charged				
1994	12970	8071	4583	932	4087	660	48	1013
1995	13640	8784	4436	840	4916	614	61	1021
1996	13365	9264	4330	980	5350	519	92	939
1997	13245	8164	4455	648	5578	463	79	964
1998	12870	12539	4143	1485	7610	452	113	975
1999	13640	8784	3471	1680	9560	400	74	841

* Certified for adult transfer.

** This number is not the total number of dispositions to out-of-home placements because some dispositions listed as RECLAIM programs were residential also. We did not have information on out-of-home placements for foster care. It includes private agency placements.

Source: Annual Reports of MetroB1 Court and Court Information system data.

Although crime and arrest data of juveniles for violent and serious crime declined, the rate of juvenile filings did not decline in MetroB1 County since the mid-1990s. There is greater pressure for stricter processing by prosecutors. However, complaints decreased by 8 percent between 1999 and 2000. Nonetheless, certifications for adult trials increased by 13 percent in 2000, but those numbers have fluctuated from year to year so a 13 percent increase would not bring the number of certifications up to the 1998 level. Commitments to the state Department of Youth Services (DYS) increased by 18 percent in

2000, so that represents a change in the steady decline of the 1990s. There have also been increases in private placements (205%) and probation (12%). Whether this reflects increased sanctions on youth to demand greater accountability could not be specifically determined, but it was not driven by increases in the volume or seriousness of crime by juveniles.

Structured decision making has been utilized in MetroB1 for many years. There have been several validation studies of the instruments that are utilized, the most recent being in 1998. The results have been useful to probation staff in validating their criteria for assignment of cases to low, medium, and high risk caseloads. The research has also been useful to staff in deleting and adding variables that were found empirically to be predictive of recidivism. In 1999, the Court eliminated the detention screening instrument, but they are now in the process of reviewing a variety of instruments to determine risk at detention, largely because the admissions have more than doubled since 1995.

Risk assessments are made in this court at several decision junctures, and they inform, but do not determine, decisions. The initial assessment of risk is completed by investigative probation staff within 24 hours of admission to detention. Following disposition, the supervising probation officer does a reassessment of risk and need in order to classify a juvenile for low, moderate or high probation supervision. Judges and magistrates retain discretion about disposition decision making regarding probation versus out of home placement in the county or to the state Department of Youth Services. The judge may refer to the initial risk assessment, but he or she is not bound by its recommendation. Reassessments are completed one or more times before a youth is terminated from probation.

Variables considered in risk assessment include type of current offense, age of first adjudication, disciplinary problems in school and home, prior referral for abuse or neglect, youth or parental alcohol or drug use, prior running away, negative peer association and gender. The risk assessment instrument has been systematically compared with those used in many other jurisdictions, in and out of state. In the evaluation study two probation officers independently performed an initial risk assessment on 50 cases and a correlation of .94 in their ratings was reported (Hamparian, 1998). The instrument was also tested for predicting recidivism. The results indicated that the risk assessment total score was a useful tool for predicting recidivism in an 18-month period following the initial assessment.

Probation staff report using both needs and risk assessment for designing interventions and indicated that needs information is primarily used by probation staff for designing interventions. The court does not utilize an instrument for the assessment of protective factors, but some of the clinical evaluations indirectly examine these factors. Assessment of protective factors might be particularly useful for determining interventions for youth of color since they are likely to have extensive needs for services and relatively few protective resources.

Service Structure

The Juvenile Court has a broad range of service alternatives available for dispositions, provided both by the court and by community agencies contracted to provide services. Although there were several hundred youth in residential placements in state, regional and local facilities, the vast majority of youth processed by the court are placed in non-residential community programs. RECLAIM dollars have been utilized to provide a broad range of services from alternative schools, wraparound and counseling, day treatment, restorative justice, sex offender, domestic violence and substance abuse services, community diversion, and multi-systemic therapy. As of 1999, a total of 1883 youth were served with RECLAIM programs as compared with only 112 in 1995 when the program began. Many of the programs receiving RECLAIM support were non-profit community agencies.

MetroB1 staff reported that they were placing increased emphasis on informal processing and diversion of status offenders, especially for those classified as unruly and minor offenders. Volunteer magistrates and community diversion programs exist in 32 out of 40 suburban communities to hear cases and assign community service projects. Most of the youth processed in these community programs do not have formal court records. Mediation programs are directed by intake officers, but they require cooperation from parents and victims. The court has established a community program for more serious inner city youth. Efforts are also underway to foster greater cooperation with schools in working with delinquents. Most of the programs that rely heavily on volunteers and parents appear to be concentrated in the suburban areas of the county rather than in the central city.

Probation officers are trained in mental health, substance abuse and gender programming, and they are encouraged to participate in additional training according to their case needs. Overall, the Court has implemented many local community programs, but until the present, these programs appear to have minimal impact on reducing residential placement of youth. Unless greater control is placed on the admission of so many juveniles to detention it will be difficult to reduce residential placements because initial detention increases the likelihood not only of formal court action, but also of further residential placement (Bynum, 1993).

MetroB1 County has an excellent information system that is capable of monitoring and evaluating its programs. If more were done with evaluation, it is possible that the effectiveness of community-based programs could be demonstrated and would reduce the pressure for more detention, residential placements, and even certifications or waivers to adult court.

MidMetroB1 County

The court is located in a medium-sized urban county of about 450,000. There is one large metropolitan area with 55% of the county population. The rate of child poverty in the metropolitan area is above the state average; the youth population is more culturally diverse and school performance is relatively low. Although there are fewer children of color than in the other sample counties, the county is racially and culturally diverse in that it has increasing numbers of Hispanic and Vietnamese youth from recent immigrations. In contrast to the other two Ohio counties studied, this county reported an increased number of arrests in 1998 (Table 5.1).

MidMetroB1 Juvenile Court was established in 1904 and became of part of the Division of Domestic Relations in the Court of Common Pleas in 1924. It has had a long history of community support and involvement. At several points, community citizens took the major role in organizing drives for increases in support for the Court. As might be expected, the Court places strong emphasis on collaboration with parents and the community in their work with juveniles. Considerable effort goes to mobilizing community resources for the rehabilitation of juveniles and for the development of informal systems for managing juvenile problems at the neighborhood level. In their mission statement, they are explicit that equal emphasis be placed on rehabilitation services while holding offenders accountable for their actions. One example of that dual emphasis is in the detention facility. The physical plant is not as modern and efficient as others in the state, but its focus is on detention of juveniles for as short a time as is possible and for doing thorough health and psychological evaluations of youth who are detained. To that end, judges and key staff meet weekly in the detention facility to review each case and recommend actions that are to be taken. They also explore alternatives to detention for youth who present no serious threat to the community or themselves. The psychological clinic which is part of detention has a dual focus, temporary detention along with professional social, physical, psychiatric and psychological evaluations to assist the court in disposition decision-making.

The Court has a Juvenile Justice Advisory Board, a group of community residents who advise the Court, the County Board of Commissioners and the Criminal Justice Coordinating Council about ways to improve services to youth, to improve the operation of the court and to promote cooperation and coordination among the several governmental units.

The Juvenile Court has a staff of approximately 248, including 32 probation staff, two judges and 5 magistrates, 5 mediators, special program staff for restitution and residential treatment programs along with administrative, clerical and other support staff. There are 7 prosecutors and 1 public defender. The Court also contracts with community agencies and attorneys for defense services. In addition it has a very large complement of community volunteers.

Intake, Case Processing, and Structured Decision Making

The majority of cases are brought to the court by police, although in recent years there have been large numbers of youth referred to the Court under the Safe School Act. In fact, there were 1636 cases of referral of youth for violations in school, making that the largest single offense category for 1999. Youth are processed by intake probation staff, and a determination is made between diversion, informal processing, detention or issuing a summons for a court appearance. Dates for court hearings are set quickly and there is a major effort by magistrates to dispose of minor and first-time offenders as expeditiously as is possible.

Formal risk and needs assessment instruments are utilized, but detailed professional evaluations are also available to judges and magistrates in decision making. Information from needs assessment is valued equally with risk assessment for determination of disposition decisions. Following adjudication, it is customary to review the assessment results so as to determine placement options for those who are to be retained in the community, including at the residential treatment center (YTC). Those who are not diverted or placed in special programs are reviewed for probation caseload assignment as high, regular, low and diverted, using a structured decision-making instrument for purposes of probation management primarily. Reassessment instruments are also utilized periodically to evaluate case progress. The several instruments have been evaluated and validated carefully. The court staff also utilize a sanctions scale for determining consequences when a juveniles violates probation or commits subsequent offenses.

Table 5.3 reports on the numbers of cases processed between 1997 and 1999. The numbers of official cases did not decline in the five years for which data were available, while the "unofficial" cases substantially increased. The rate of delinquency cases per arrest was quite stable until 1997 (about 46 per thousand), and there was a decline in serious crimes and in commitments to DYS. Part of the reason for the lack of decline in overall case processing may be explained by the increases in juveniles arrested in MidMetroB1 County during 1997-1999.

Seventy percent of the total cases processed are male and the majority are processed with formal delinquency charges whereas the 30 percent who are female are disproportionately processed as status offenders and unruly. Between 1995 and 1999 the proportion of unofficial cases varied between 24 percent and 26 percent of the total cases processed. Of those who were formally adjudicated, however, 94 percent were delinquency cases and 6 percent were status offenders. Nearly 60 percent of all of the cases are for African Americans and youth of other racial/ethnic backgrounds in a county where the proportion of people of color is only 17 percent.

Table 5.3: Characteristics of Cases Processed in MidMetroB County

Year	Delinquency Cases	Status Cases	Unoff.	Adj. Del. Cases	Com. To DYS	Detention Admissions	Cert. for Adult Trial	Out-of-Home Place.
1995	5320	637	1533	3841	155	4737	18	94
1996	5175	565	2376	4405	173	5187	13	96
1997	5385	593	3127	5345	151	4941	16	75
1998	6830	335	2536	5628	111	Not available	31	67
1999	5772	632	2064	5370	98	Not available	20	91

Source: MidMetroB1 County Juvenile Court Annual Reports of 1995-1999.

* Out-of-home placements include private agencies, and the local Youth Treatment Center which has between 40-44 youth in residence for up to a year. DYS commitments are excluded.

Because of the changes in Ohio law, prosecutors have become far more active in the past five years in handling official filings and certifications for adult trials. In contrast, most defense counsel is provided by court-appointed private attorneys and student lawyers from the University because the court has been unable to secure funding for more public defender services. It was estimated by the public defender that about half of the youth plead guilty and the court develops alternative dispositions. Because most indigent youth do not have court-appointed counsel, a pilot public defender program was initiated but not fully funded. At present, the one public defender works only at arraignment and reported that most of his cases were resolved at arraignment. In addition, magistrates often have the assistance of volunteer mediators to resolve cases without court hearings, and they have been successful in nearly half of such cases.

Service Structure

A wide range of services are provided by court staff or through court initiatives, including mediation, diversion, restitution, family counseling, substance abuse, early truancy prevention, sex offender, diversion, short-term placement, mentoring and voluntary community programs to address neighborhood problems. The county also has a 44-bed Youth Treatment Center, partially funded by the Department of Youth Services, that was selected as the most effective one in the state.⁵ It also was

⁵ Holsinger, A., Latessa, E.J., and Kadleck, C. (1999), "The County Juvenile Justice System: Evaluation and Overview."

selected to have an OJJDP-funded comprehensive program for addressing serious, violent and chronic offenders.

An intensive supervision program (ISU) is also provided as an alternative to residential placement, as is a special program for at-risk minority offenders. Most of the local programs receive substantial funding through the RECLAIM program, but there also has been substantial effort at the neighborhood level to help the community develop structures and procedures for handling juvenile conflict without bringing juveniles to court. They are experimenting with local juvenile panels to hear cases.

One agency of particular concern to the Court is the public school. The Court recognizes the school as a critical institution with which it must have a strong collaborative relationship. Staff reported that this need had become more pronounced since the implementation of the Safe Schools Act and "zero tolerance" policies. Many youth brought to court for processing are, as a result, permanently removed from the regular school system. In addition, the Court collaborates on alternatives for addressing truancy behavior. One of the techniques that MidMetroB County uses to address school behavior problems is mediation involving the youth and his/her parents. Mediation has been extensively developed to handle "unofficial" and "unruly" cases. The mediation program has developed from 345 cases in 1995 to 1150 cases in 1999. More recently, they began using mediation to address family conflict where juveniles have been charged with domestic violence and may be held in detention, pending disposition. In 1999, 104 out of 158 cases of domestic violence reached agreement through mediation. More than 100 student lawyers serve as mediators each year.

Probation officers are expected to spend most of their time in the field and to work with schools and other community organizations as well as the juvenile and his/her parents. Many reported difficulties in working with school personnel and felt additional resources were needed in this area. In a recent survey of court staff, Holsinger, LaTessa and Kadleck (1999) reported high levels of satisfaction with supervisors, but felt that they needed local resources that they could utilize flexibly when needed. They also reported that probation staff thought that a large majority of juvenile offenders could be successfully treated in the community if there were adequate resources. One program that was said to be greatly needed was "day treatment." This recommendation may be a reflection of need created by the large number of students expelled or suspended in County schools.

Overall, MidMetroB Court has developed a broad array of community programs that do not involve out-of-home placement. In addition, it has been successful in securing broad community participation and support in its community programs with the possible exception of the schools. Nonetheless, these activities appear to have had little impact on reducing the number or the rate of processing of youth into and through the court, especially youth of color.

MetroB2 County

MetroB2 Juvenile Court is located in a metropolitan area exceeding one million but the court's jurisdiction is of a county of approximately 800,000. It is a prosperous county with considerable industry and trade, and, therefore, it has a substantial tax base to support youth programs. The city is highly segregated by race and class, with the inner city primarily African American (43%) while the overall county is 26 percent African American. Youth of color comprise a slightly higher percentage of the youth population than do people of color in the overall population. A majority of the poor are concentrated in industrial, old and deteriorating areas. The suburban areas are primarily middle class and white.

Beginning in the early part of the 20th century, the Juvenile Court has had a long tradition of services to youth and their families. It has jurisdiction over delinquency, dependency, abuse and neglect, paternity/child support, adoption, juvenile traffic violations, and adult cases where there is a contribution to a child's delinquency or truancy. The Court has developed or assisted in the development of an extensive array of local public and private services for the treatment and control of delinquency. Provision of these services has required substantial community resources, and these were provided long before RECLAIM was established by the state. The Court began as a Family Court so that factor shaped its early responsibilities for families and children.

The Court headquarters are in a large downtown building with 23 court rooms and a large number of offices. It also operates a 160-bed modern detention building and a 142-bed county training school. It is a large organization with 557 staff in three divisions: 214 positions in the central offices, 168 at the County Training School, and 175 at the Youth Center (detention). There are a number of separate departments for the following: court services (including probation and specialized services operated directly by the court), information services, security, training and development, operations, and case management. It is responsible for decision making regarding delinquency and unruly cases with a total volume of approximately 24,000 cases processed annually.

The court has two elected judges who primarily hear dependency and custody cases, cases involving the transfer or waiver of juveniles to the adult criminal court, emergencies and most cases involving serious person crimes or commitments to DYS. Most delinquency cases are handled by 23 magistrates. The Court has a contingent of 16 public defense attorneys and a similar number of prosecutors both of whom are housed in a nearby building where their parallel adult staff are located. Both groups however have offices in the Juvenile Court Building where the hearings and trials are held. During our field observations, the public defenders appeared extremely busy with their caseloads, perhaps not surprising because most court clients are poor or low income. Prosecutors tended to be young attorneys who have relatively short tenure in the juvenile court.

Intake, Case Processing, and Structured Decision Making

Table 5.4 presents a summary of case processing between 1994 and 1999. It is evident that there has been considerable variability in the processing of unruly and delinquency petitions over these years, but there has not been the significant decline that would be expected given the decline in juvenile arrests in MetroB2 County in 1997 and 1998. Arrests reportedly dropped from 20,006 in 1996 to 8,696 in 1998.⁶ The delinquency filings remained essentially constant from 1994-1999, but the filings as "unruly" doubled and then declined in 1999. Of the total number of delinquency filings, about one out of three are formally charged. Only in the case of "certifications" to adult court and in commitments to DYS has there been a significant decline. It is probable that the existence of RECLAIM funds has made a difference in state commitments, but it does not appear to have effected overall case processing. The Court operates one training school within the county that has had a stable annual enrollment of approximately 250 male youth per year. Females are placed in a private residential program.

Case processing begins with police bringing youth who are arrested to the Detention Center for processing (See Figure B in Appendix A). Most of the youth who are formally processed enter through the Detention Center where they are typically brought by police. A total of 12,089 youth were processed through the Center, but only 6590 were formally admitted in 1999. Similar numbers were processed each of the preceding years for which we have information. The admitted group is 70 percent nonwhite and 25 percent female while the percentage of youth of color in the formal caseload varied between 61 and 64 percent. Youth are detained between 8 and 12 days, on average, but most initial processing takes place within the first 24 hours. Youth are assessed immediately upon arrival, using an instrument developed by Grisso and Barnum (2000). Youth also receive complete health screenings, including screening for drugs and alcohol. Information from these assessments are retained electronically and are available to the staff during all subsequent processing.

The Center is a large, well-designed building, well equipped with education, mental and physical health services as well as with variable levels of security. It is also equipped for parents to come to the facility at any time for information about their child. Because the length of time for processing in detention can involve several days, many juveniles can be held there temporarily until a decision is reached on formal processing.

⁶ Source: Snyder, H. and Finnegan, T. (1999) "Easy Access to FBI Statistics: 1994-1998." Pittsburgh, PA: National Center for Juvenile Justice. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.

Table 5.4: Characteristics of Case Processing in MetroB2 County

Year	Unruly		Delinquency		Detention Admissions	Certified for Adult trial	DYS Commitments
	Filings	Charged	Filings	Charged			
1994	1807	--	20,321	8476	6953	126	394
1995	2244	--	21,447	--	--	--	--
1996	3025	957	21,707	6898	7190	108	330
1997	3610	1110	22,079	9548	7427	94	294
1998	3176	1151	21,448	9196	7669	72	265
1999	2660	967	21,460	6733	6590	72	239

Source: MetroB2 County Juvenile Court Annual Report, 1994-1999.

Prosecutors reported that they had little involvement in detention decisions or early case processing unless the case involves a serious offense or the youth was a chronic offender. They reported less concern than the judge about the increased processing of females, especially for incorrigibility or domestic violence and thought the problem usually was resolved by the family after a few days of detention of the juvenile.

Structured decision making has been and is extensively utilized in various departments of the court. It is the plan of the court to have all of the assessment and structured decision making electronically managed so that judges, magistrates and probation staff will have ready access to the information. At present, the actual risk assessment is specialized in an intake unit and results are not generally available.

Following detention, structured decision making is used most extensively by probation in the initial pretrial assessment and again during probation case management. The Intake Unit is responsible for administration of the instruments and has completed some systematic evaluation along with the staff from a nearby university. It is also used separately for youth in the training school. Although the MetroB2 court has utilized a variety of risk/needs assessment instruments, they are presently using the YO-LSI and their own instrument, assigning cases on a random basis.

Administrative staff indicated that the pressure for more systematic risk assessment is being driven by national professional organizations such as the National Institute of Corrections, National Council on Crime and Delinquency, and others interested in emphasizing performance-based outcomes. Little attention is directed toward the inclusion of variables in the instruments which are not subject to

change without changes in policy and community level intervention (e.g. poverty, family structure, community disorganization).

The probation staff appeared relatively neutral about the value of risk assessment results for their work with youth, but several indicated that needs assessment information is generally more helpful for intervention and case management. They have found that they need other instruments for the assessment of youth who are substance abusers or sex offenders. Some commented that they used the instruments to be able to assure the community and to justify their decisions. They have also developed a structured model of graduated sanctions for probation. They were aware of the possibility that the legislature might establish a Sentencing Commission to control sanctions with legislation. If that were to occur, several court staff expressed concern that the most appropriate interventions may no longer be possible.

The magistrates do not have regular access to risk assessment scores although they are aware that probation officers use the information in making recommendations. Eighteen magistrates process all of the delinquency cases except the "certification" decisions for adult trials. They conduct trials, but not jury trials. There are five inner-city elementary schools in which magistrates conduct truancy hearings trials during which the parent may be tried for failing to send the child to school.

Many of the key administrative staff have had many years of experience in various positions in the MetroB2 Juvenile Court. As a result, there is considerable pride and loyalty regarding the variety of programs that they have established and the facilities that have been developed.

Service Structure

Probation is the largest single disposition program operated by the court. They have a caseload of about 1000 cases per year and 350-400 cases of pre-sentence investigations that are completed by the officers. Each officer has 35 supervision cases and 15 investigations at one time. The investigations require most of the time of the staff who may refer juveniles for services provided by local community agencies.

MetroB2 Court has a very broad range of services that are utilized as disposition alternatives and also for further clinical assessments. Most of these services are community-based programs, including residential as well as non-residential programs. They have shelter care, residential drug treatment, an intensive residential diagnostic center and a special residential program for adolescent females. Programs for families include family preservation, day and drug treatment programs. Non-profit community agencies provide wrap-around, work detail and truancy prevention programs. For youth processed informally or diverted, there are community resources such as the Volunteer Referees who have been trained by the Court Staff to conduct informal hearings in their neighborhoods and assign community

service activities. They serve approximately 1000 youth each year and are located primarily in the suburban areas. The Youth Service Bureaus served 2615 juveniles as hearing officers, providing referrals for community service projects in 1999. None of these youth go through the Detention Center. The Court operates a Pre-Trial Intervention Unit for services to families in conflict, particularly in cases of adolescent incorrigibility. If the family participates and cooperates, the case is not formally processed.

Concern was expressed by some probation staff about recidivism among the offender population and the fact that public school enrollment has declined substantially, but they have very limited information about drop-outs. Truancy data do not appear to pick up a substantial population of secondary school students who have dropped out of school. Most of these youth may be of color, thus exacerbating their already disadvantaged status. Similar to MidMetroB County, probation staff expressed concern about problems of juveniles in the schools, particularly suspensions and drop-outs, but there were few systematic efforts by the Court to address the problem comprehensively other than the hearings conducted in five elementary schools. Many of the court staff were very critical of the city public schools, but did not give an indication that there was an overall strategy to work seriously with the schools to address one of the most serious problems in juvenile delinquency.

MetroB2 County has a strong commitment to research and evaluation that is evident in their developing or supporting new innovative programs. The Court is moving toward having an on-line information system accessible to all decision makers in the Court. In recent years, with greater emphasis on performance-based outcomes, they have devoted resources to evaluation of several programs. With respect to the pilot study on risk assessment that they were doing at the time of our visit, they reported that they were testing two instruments: the YO-LSI and the HCJC which they had developed at the court. There are time and money-saving advantages to the latter so they wanted to determine if it was as effective as the YO-LSI.

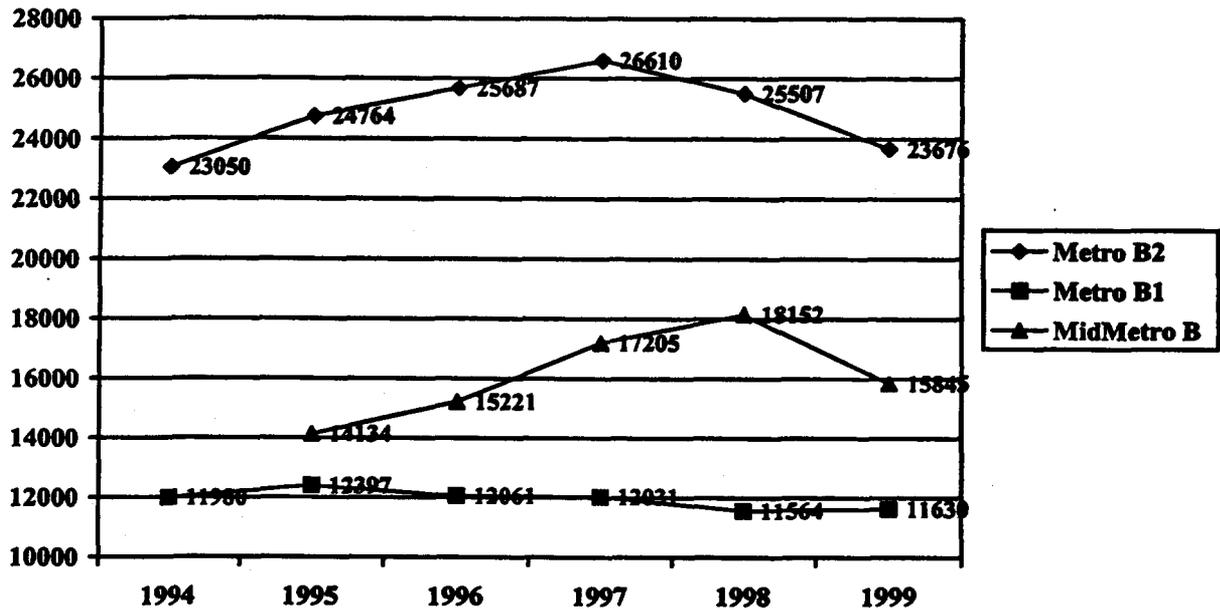
Overall, the Court processes or supervises the processing of thousands of juveniles in MetroB2 County, and one needs to study the long term consequences of such extensive intervention into the lives of children and families. There also appear to be pronounced differences in the ways in which poor youth of color are dealt with by the Court and other community agencies versus the approach that is utilized for middle-class white youth. The latter programs are under the control of community residents to a far greater degree.

CONCLUSION

The three courts which we studied in Ohio all have developed extensive community programs for delinquent youth from the point of initial court intake through post-adjudication and dispositions

programming. Some of these programs are operated directly by the courts, others are contracted to community agencies, and, in still others, the court supervises and assists voluntary community efforts to address the problems in their own neighborhoods. Despite all these efforts and a marked decline in youth crime during the 1990s, the numbers of youth processed have not declined. In fact, in most cases the courts increased their processing of youth charged as status offenders or unruly. Summarized in Figure 5.1 are the total numbers of cases processed per 100,000 youth in each county. For example, in the case

**Figure 5.1: Rates of Juvenile Court Filings
(per 100,000 youths 10-17)**



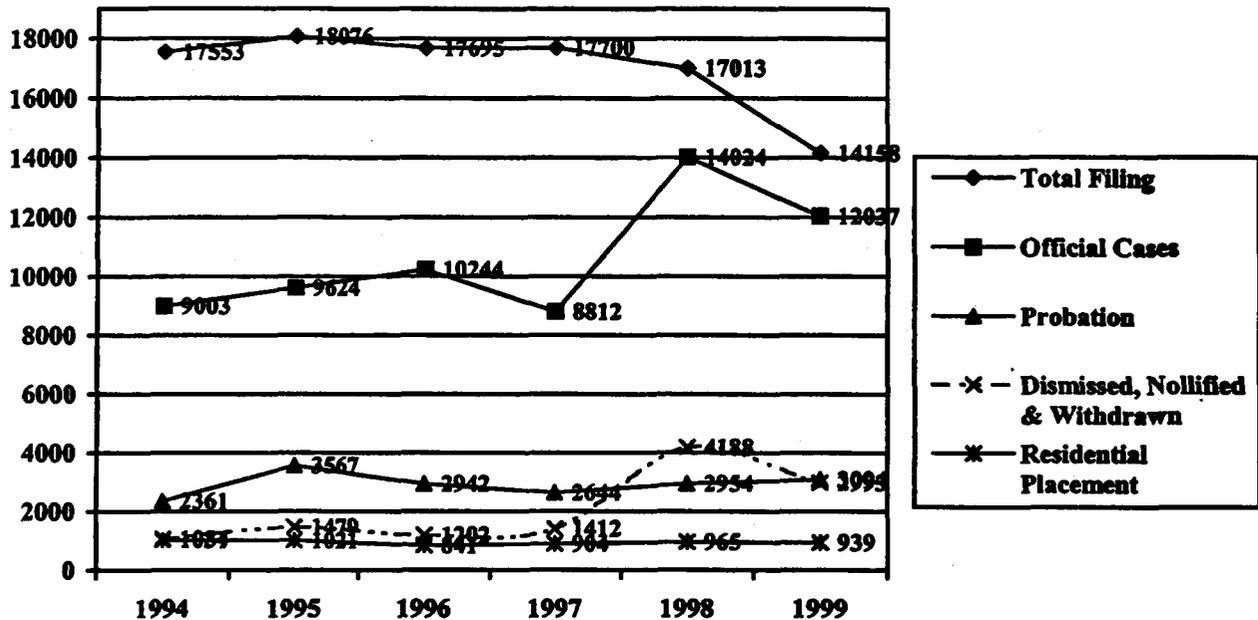
Source: Annual court reports

of MetroB2, the data indicate that one in four youth in the county may have some contact with the Juvenile Court each year. As is known from the studies of Wolfgang et al. (1972) and others, frequent and serious delinquency is concentrated in a small number so this information on filings is probably not an unduplicated count of juveniles.

Figure 5.2 illustrates for MetroB1 the pressures that large case volume poses. About one third of the cases are resolved at intake and a substantial number are "dismissed, withdrawn or nollied." Approximately 1 in 8 cases is assigned to probation and a small stable percentage are placed in residential care. It is unclear what happens to many other cases which are processed, perhaps adjudicated and assigned to a community program or given a suspended sentence or a continuance. With the level of staff that the courts have available one can question the real benefit of their processing, as many juvenile cases

are then resolved, dismissed or withdrawn, but the juvenile probably has a record that may follow him or her for a very long time.

Figure 5.2: Court Processing in MetroB1 County



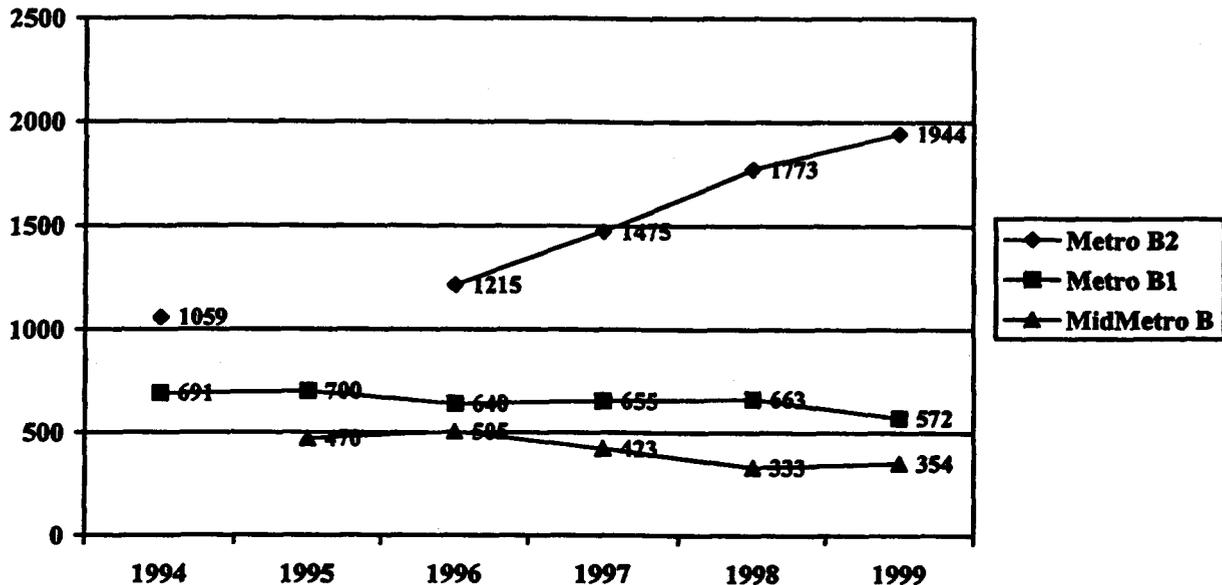
Source: Annual court reports.

Another issue receiving attention today is the extent of out-of-home placements. Figure 5.3 indicates that there are high levels of variability among the courts in the rate of out-of-home placement of youth in these three counties.⁷ Thus, MetroB2 has an extensive array of community services but also places many youth in out-of-home placements.

Structured decision making is practiced in the three sample courts studied in Ohio for several purposes: decisions to detain, initial risk assessment, risk and needs assessment for case management in the community, and for reassessment prior to termination. It is seldom used directly in disposition decision making, and, in most instances, it appeared that judges and magistrates do not systematically use SDM assessment results prior to making disposition decisions although they may use other clinical assessment information. Part of the reason for their reduced use of SDM may be the disposition

⁷ The numbers of youth in out-of-home placements could not be fully documented. Official reports and records were utilized to identify these placements, but this information is often incomplete. Detention information was excluded because that is largely pre-adjudication and not a formal placement. It should also be noted that placements may last for several weeks up to a year. Very few placements would continue longer than a year although many delinquent youth experience sequential out-of-home placements.

**Figure 5.3: Rates of Out-of-Home Placements
(per 100,000 youths 10-17)**



Source: Annual court reports. This includes all reported placements except detention.

specifications contained in legislation that restricts discretion. It is also apparent that the increasing roles of prosecutors in recent years has also restricted use of standardized decision making.

Ohio juvenile courts have validated the instruments that they are using and have modified them with additional information from the research. Nonetheless, it appears that the risk assessment instruments primarily focus on decision making that is concerned with security and public safety so they are more likely to be used in selected disposition alternatives. Needs assessment instruments were reported to be more useful for intervention management, but they too often included variables that could not be modified with the technology available to probation officers (e.g. family structure, poverty, educational practices of schools).

Increased attention now is being directed toward differential intervention with females and toward more attention to parents, but the latter appears to be directed primarily toward holding parents accountable for their child's behavior. Domestic violence is a rapidly increasing charge against females in Ohio juvenile courts, but this appears to result as much from a change in domestic violence policy regarding police pick-ups as from any change that may have occurred in the behavior of adolescents in the home.

The RECLAIM program has produced a decline in commitments to state facilities, but it has not had any discernible effect on reducing the out-of-home placement of juveniles. There is some evidence that it has resulted in a "net widening" of the numbers of youth who are processed into and through the

system, albeit informally. Violent and serious crime declined substantially in Ohio during the late 1990s, but the numbers of youth processed in the three sample courts did not decline as was expected. Although needed evidence is lacking, it is probable that eligibility for most services required that a juvenile have some type of court status whether that was truly appropriate or not. There was limited evidence that the strategies effected any change in the behavior of other critical organizations serving juveniles, particularly the public schools. If a community has the goal of reducing pupil truancy, misbehavior and dropping out, this may not be achieved by processing more and more juveniles through the courts. The single largest offense category in one of the sample courts was referrals from schools for violations of the Safe Schools Act and "zero tolerance" policy. Very few of these youth were referred for violence. The public needs to examine whether the court is the place to address all discipline problems of the public schools. However, this is the practice and policy today in many communities. Findings from the studies of Short (1979), Elliott (1985), and Thornberry (1987) and many others indicate that there are several points in a juvenile's development at which delinquent behavior need not escalate. They argue for the provision of positive role models, opportunities for success in school, improvement in community conditions that are associated with crime, and for other pro-social opportunities. All too often in court processing and adjudication, those youth at greatest risk are least likely to receive the services that they need because of the court caseload pressures that prevent or inhibit court staff from providing the services that they know are needed.

The issue of minority overrepresentation remains problematic in Ohio juvenile courts and throughout the United States today, but there was little evidence that the problem receives serious attention from anyone in juvenile justice although a conservative estimate is that 60 percent or more of the youth in detention, court processing, adjudication and subsequent out-of-home placement are youth of color. The information for the period 1995-1999 for Ohio on minority overrepresentation is essentially the same as it was in the study completed in 1993 by Dunn and his associates, using 1989 data. Efforts at implementation of the federal mandate to decrease minority overrepresentation were not apparent, although all of the agencies collect extensive information about youth of color in all the stages of court processing.

CHAPTER 6

ILLINOIS

THE COURT IN THE COMMUNITY: CONTEXTUALIZING THE ADMINISTRATION OF JUVENILE JUSTICE

The state of Illinois has a long tradition of juvenile justice, with the first juvenile court in the United States instituted in Cook County, Illinois in 1899. Known as the “Land of Lincoln,” Illinois maintains a long and proud tradition as a leader in social welfare policy movements, including Jane Addams’ Hull House and a recent moratorium on the death penalty. Stretching approximately 385 miles from north to south, it is a state of great cultural and geographic diversity, located in regions that identify as both northern and southern. Illinois includes a large urban area, but remains largely rural throughout the central and southern parts of the state. Chicago sits in the northeast corner of the state, part of a metropolitan area that includes approximately eight million people. The remaining approximately four million residents reside throughout the rest of the state, largely in rural or mid-size counties. This diversity has a significant effect on juvenile justice policy and practice throughout the state.

This chapter examines juvenile justice administration in Illinois. Specifically, it identifies factors at the state and local levels that differentiate decision making practices and procedures in juvenile courts. First, it briefly examines the organization of juvenile justice at the state level, focusing on four factors that impact juvenile case processing – legislation, resources, court organization, and the “court community” context. Although not an exhaustive list, we identified these four factors as impacting the organization of decision making in the courts we studied. The discussion sets the context for analyzing how these factors impact local court structures and practices. Attention is also paid to overall statewide trends in juvenile justice administration. Next, the chapter examines decision making in three local juvenile courts.¹ Specific attention is paid to how legislation, court organization, resources, and the court community context differentially impact juvenile justice administration in these courts. We draw upon qualitative and quantitative data from site visits, interviews, court and state reports, as well as other secondary data sources for this analysis.²

¹ See Chapter 2 for a discussion of the selection of these counties.

² We collected an array of different materials at the state and county level that are included in this report. The information is based on interviews, observations, court reports and documents, state reports and documents, analyses performed by the Illinois Criminal Justice Information Authority (ICJIA), other research reports performed on the

JUVENILE JUSTICE AT THE STATE LEVEL

The juvenile justice system in Illinois is decentralized and exists as a configuration of semi-autonomous courts and agencies making decisions based upon resources, cultural values, and context at the local level. Local agencies involved in juvenile justice include the courts, county boards, police, schools, social service agencies, and other community groups/actors. Several state level agencies and actors also are involved in juvenile justice administration. These agencies include the state legislature, the Illinois Department of Corrections (IDOC), the Administrative Office of the Illinois Courts (AOIC), the state police, the Department of Children and Family Services (DCFS), and the Department of Human Services (DHS). The following discussion describes the context of the state juvenile justice system in Illinois through a discussion of juvenile justice legislation, organization, resources, and culture.

Legislation

The juvenile code is one tool that states have used to dictate juvenile justice policy. As indicated in Chapter 3, Illinois has enacted a number of code changes during the 1980s and 1990s that impact the juvenile court. One significant change in the early 1980s largely removed status offenders from the jurisdiction of the juvenile court, thereby substantially reducing the flow of cases into the system. Many of the more recent changes have focused on easing the process of transferring juveniles to the adult criminal court, including a presumptive judicial transfer provision and the addition of crimes to the statutory exclusion provisions. These changes did not focus on the system as a whole, but instead represent attempts to deal with increases in youth crime, particularly violent youth crime.

Responding to these concerns about youth crime and violence, and in many ways to changes in court practice, the Illinois General Assembly sought to overhaul the juvenile justice system through a substantial revision of the juvenile code. The goal of the General Assembly in enacting a new code was to systematically deal with the issues affecting the juvenile justice system. Stated concerns included the "rise in violent crimes committed by juveniles, the early onset of criminal careers, the need for enhanced education and training programs for children within the juvenile justice system, the system's inadequate responses to rapid change in the rate and nature of violent juvenile crime, and the recidivism rates of juveniles" (Report of Legislative Committee, 1996). Driven by these factors, in 1994 the Illinois General Assembly created the Legislative Committee on Juvenile Justice, a 29-member committee charged with

court, and data provided by the Illinois Department of Corrections, Juvenile Division. We do not cite every source in this discussion, but only cite those that provided direct information.

drafting a new juvenile code. Members of the committee consisted of individuals from law enforcement, the judiciary, probation, prosecution, defense, corrections, politics, nonprofits, and other advocates.

The committee process involved a great deal of debate over the mission of the juvenile justice system in Illinois. In 1996, the committee presented a report concerning its recommendations for legislation. However, ten members of the committee wrote a minority report dissenting from the recommendations of the committee.³ Conflict focused primarily on disagreement over recommendations to hold youth accountable for their crimes without ensuring that the system was held accountable to the youth. Because of the inability of the committee to produce a draft code, responsibility was handed to the Illinois State's Attorney Association (Schwartz, 1999). The ISAA drafted new legislation, but many individuals remained critical of its punitive focus without addressing the failures of the system. Consequently, several changes were made to the legislation, including the creation of community mediation panels, and it was adopted by the Illinois General Assembly in 1998.

Essentially, the new code serves as a departure from prior juvenile justice philosophy in Illinois.⁴ Previously, the purpose clause of the juvenile code focused on "*the best interests of the minor and community.*" The new code, however, changed the purpose clause of the delinquency section to include three principal goals: public protection, accountability of the offender, and competency development.⁵ This purpose clause represents a "balanced" approach to juvenile crime and violence focusing on both punishment and treatment. Other significant provisions include changes in terminology, increased victim rights, inclusion of an "once an adult, always an adult" provision, limits on and recording of station adjustments, creation of community mediation programs, and an extended juvenile jurisdiction (blended sentencing) provision. It did not add further transfer mechanisms, offenses, or lower the minimum age eligible for transfer, but did maintain the provisions added in the 1990s.

It is still too early to measure the impact of the new code, and respondents reported that the effects have thus far been limited. The tone of the code revision was fairly punitive in nature, continuing a shift in the mission of the juvenile justice system in Illinois that several respondents noted. According to Schwartz (1999), the effect of the code will center on how its punitive aspects interact with its more rehabilitative aspects. Several individuals commented that they are most concerned about the *Extended Juvenile Justice* (EJJ) provision because of the punitive power it gives to juvenile courts and prosecutors. Community mediation panels provide a potential mechanism to deal with juveniles at the community level, but respondents were mixed about the overall impact of these panels on the flow of cases into the court and their effect on the system. Respondents also reported that the new terminology of the code had

³ One member also prepared a separate report further dissenting from the recommendations of the committee.

⁴ A more detailed analysis of the provisions of the revised juvenile code is provided in Chapter 3.

⁵ See Chapter 3 for the purpose clause of the revised code.

not yet taken effect in the juvenile system and most practitioners still used the old juvenile court terminology. Essentially, although some individuals were dismayed by the direction of the new code, most respondents reported that they were proceeding with business as usual.

Beyond the substantive effects of the new code, the politics behind the drafting and passage of the code are indicative of broader changes in the juvenile justice system. Although the legislature initially formed a committee consisting of members from many areas of the juvenile justice community, the state prosecutors association eventually drafted the code. The difficulties the initial committee had in drafting the code signify the immense complexity of and controversy over the mission and operation of the juvenile justice system in Illinois. However, instead of pursuing these complexities, the legislature assigned the job to one segment of the juvenile justice community. This process is symbolic of trends in juvenile justice, as well as of the increased role and legitimacy of prosecutors in the system. Juvenile justice is a complex area, but increasingly states are turning to more simplistic and punitive tools, such as waiver, to deal with children, instead of focusing on tools and mechanisms to address the majority of youth who come into contact with the system. The debate over the revised Illinois code concerned the need for prevention, intervention, and system accountability, but it is uncertain how the provisions of the new code will provide these attributes.

Another important aspect of juvenile legislation in Illinois is the "problem" that code changes have been directed toward. The concerns cited by the Legislative Committee focus on increasing and early onset of violence among children. Additionally, respondents reported that code changes and many of the concerns of the legislature are focused on the largest county in the state. According to these respondents, high profile cases in this jurisdiction have driven juvenile justice policy in the state, overstating the extent of these problems and neglecting the needs of the large proportion of children who enter Illinois' juvenile courts. A major test of juvenile code changes both in Illinois and nationwide will be the impact that they have on the majority of children, that is non-violent offenders, who enter the system.

Organization of Juvenile Justice

The organization of the juvenile justice system in Illinois is another key factor in the administration of juvenile justice because it defines the roles and procedures of the different agencies and actors in the system. The organization of juvenile justice includes the court system and other agencies and actors at both the local and state levels. The Illinois court system is organized into twenty-two different circuit courts. Circuits are under the jurisdiction of five appellate courts under the jurisdiction of the Supreme Court of Illinois. Circuits can include one or many counties, depending on the size of the

counties within each circuit. Counties typically operate their own trial courts within each circuit and juvenile courts are operated within this county court structure. Besides the judiciary, each court typically includes a probation or court services division, a State's Attorney's Office, and a Public Defender's Office.⁶ Depending on the size of the county, these departments may be small and require officers/attorneys to focus on both juvenile and adult cases or may be large and specialized.

State level actors and agencies include the Illinois Department of Corrections (IDOC), Administrative Office of the Illinois Courts (AOIC), Department of Human Services (DHS), and the Department of Children and Family Services (DCFS). The Illinois Department of Corrections operates a Juvenile Division for youth committed to DOC. Youth may be committed by the court as full commitments,⁷ felons,⁸ evaluations,⁹ habitual offenders,¹⁰ or for parole violations. The IDOC does not accept youth in need of authoritative intervention or youth committed for contempt of court charges. The state does not contract with private facilities, but only uses public facilities to house committed youth.¹¹

The juvenile division operates seven facilities ranging from minimum to maximum security and offering a range of programs and services. Substantial expansion and construction were appropriated in recent state budgets. This expansion is adding or has added 878 new juvenile beds to DOC through the expansion of existing facilities or construction of new facilities. This includes the construction of a 360-bed medium-security facility and a 288-bed maximum-security facility. This increase is due both to overcrowding in DOC juvenile facilities and changing perceptions about how to deal with juvenile offenders.¹² The juvenile division also operates two reception centers – one for males and the other for females – where youth are evaluated and assessed for placement and the creation of a services plan. Youth are intended to stay at the reception centers for several weeks, but often wind up staying longer depending on available space. The evaluation includes the youth's educational, medical, behavioral, and mental health history and is conducted to determine where youth should be sent and what specific needs must be addressed. Youth are assigned field workers who must develop the plan for treatment and monitor each case. Because the vast majority of juvenile sentences are indeterminate, each youth is

⁶ Public Defender Offices are required if the county population is over 35,000. In small counties, a separate juvenile division may not be possible, but in larger counties, one or more attorneys may only handle juvenile cases.

⁷ Committed for delinquency offenses as indeterminate commitments. May be held until the age of 21 with a change in the law. The minimum age for admission to DOC is 10. A 1995 law lowered the age from 12 in response to the "increasing" violence of young offenders. These youth may be housed in the DOC or in private secure facilities approved by DOC. As of 2000, two youth under the age of 12 have been transferred to DOC.

⁸ Committed by the adult criminal court. In Illinois, juveniles under the age of 17 are primarily housed in the juvenile division of IDOC and then may be transferred to the adult division.

⁹ Commitments for up to a 90 day period for evaluation and assessment services, then returned to the juvenile court for disposition. Some courts use this to gain further information about particular youth while others use it to scare youth about the realities of the IDOC.

¹⁰ See Chapter 3 for a discussion of this provision.

¹¹ See footnote 7 for exceptions.

assigned an Administrative Review Date (ARD) based on the youth's offense, previous history, and need to assess the youth's progress and determine whether the youth should be released back to the community.

The Administrative Office of the Illinois Courts (AOIC) plays a significant role in juvenile justice by providing funding, support, structure, and services to probation departments. AOIC is active in developing risk assessment instruments, collecting data from individual courts, and improving probation services through training and funding. AOIC implemented a risk assessment instrument in all counties to be used once a youth has been assigned to probation as a disposition. This instrument is used in case management and determines the number of contacts that a youth must have with his/her probation officer. AOIC is also active in working with courts to develop detention-screening instruments. Several counties with detention centers have implemented detention-screening instruments in conjunction with AOIC. As is evident, beyond its other roles in the administration of juvenile justice in Illinois, AOIC is extremely active in developing and implementing risk assessment throughout the state.

The Department of Human Services (DHS) and Department of Children and Family Services (DCFS) play a role in the juvenile justice system by offering programs and services to particular youth in the system or at risk of entering the system. Types of programs include substance abuse treatment, comprehensive community-based youth services, mental health treatment, youth services, and other delinquency intervention programs. They are designed to serve a variety of different needs in both community and residential settings and to supplement programs at the county level.

Illinois also maintains 16 different detention centers throughout the state, mostly in larger counties in the northern and central parts of the state. Counties that do not maintain detention centers – which include smaller counties and counties in the southern part of the state – must send youth to other counties or states for detention. This geographic distribution of detention impacts both the detention centers as well as the use of detention as a disposition. Some counties with detention centers run transportation programs that bring youth from other jurisdictions. Detention capacity in Illinois grew 69% between 1989 and 2000 and further expansion is currently underway.

Resources

Related to the overall organization of the system, the organization of resources is an extremely important factor in the administration of juvenile justice. In Illinois, funding for the juvenile justice system comes from a variety of sources at the state and local levels. The state pays for youth committed

¹² In 198, rated capacity at DOC juvenile facilities was 1,366 and the end of year population was 2,216.

to the IDOC,¹³ judicial salaries,¹⁴ probation officer salaries,¹⁵ some support for local prosecution,¹⁶ and some support and administrative services. Counties could previously access state services for youth under the care of the Department of Children and Family Services, but a recent law removed that funding once a youth reaches the age of thirteen. Additional options for state level services and programs include drug and alcohol abuse treatment,¹⁷ the Comprehensive Community-Based Youth Services program,¹⁸ the Unified Delinquency Intervention Services (UDIS) program,¹⁹ mental health services,²⁰ and other youth service and youth development programs.

Other than these funds, county governments are responsible for juvenile court services, programs, and court operations at the local level. County governments use money from general revenue funds and other special funds, such as fees for court services, to fund local juvenile justice activities. Federal, state, and private grants distributed to state agencies and local governments for criminal and juvenile justice activities provide additional money for various programs or services in some counties, and some counties actively seek these grants for court services and programs.

Juvenile justice funding in Illinois creates a situation where courts are uniformly funded for various standard activities and have some options available at the state level, but services, programs, and other operations at the local level are largely dependent upon the resources of individual counties. Community-based services, programs, and placements for delinquent youth are primarily paid for by county governments. The funding structure of the juvenile justice system in Illinois means that juvenile courts in counties that do not have or are unwilling to put resources into funding juvenile services must make alternative arrangements and/or be creative in their approach to finding programs, services, and placements for youth outside of available state resources. Counties that allocate money for these services have opportunities to establish additional programs beyond basic probation. While the new juvenile code focuses somewhat on the need for prevention and intervention services, a great deal of debate over the

¹³ Courts are not charged for costs associated with youth committed to the state.

¹⁴ All judges are funded directly from the state, and positions are apportioned to counties based on caseload sizes.

¹⁵ Adult and juvenile probation officer salaries are funded by the AOIC at 100% for the chief probation officer, and all probation officer salaries needed to meet the AOIC's minimum workload requirements, including probation officers to implement an Intensive Probation Supervision Program. AOIC also pays a portion of the salary of additional probation officers providing basic probation services and those providing new or special services. Expense for overhead, transportation, and supplies are primarily paid by individual counties.

¹⁶ The state also reimburses county governments for part of the salary of the elected State's Attorney, but county governments pay the bulk of the costs for prosecutor and public defense/contract attorney salaries.

¹⁷ Department of Human Services funded program.

¹⁸ Department of Children and Family Services program targeted toward youth identified as minors in need of authoritative intervention.

¹⁹ Department of Children and Family Services funded program intended to provide an alternative to commitment to IDOC. This program is operated by nonprofit agencies contracting with the state.

²⁰ Department of Mental Health funded program.

code centered on the state's commitment to fund programs and services for counties because of the impact that variations in these resources have on the administration of juvenile justice.

Court Community Context

The court community perspective is an ecological model that views courts as "communities" that are further embedded in specific community contexts. Court workgroups develop their own organizational cultures and norms that mediate the impact of external laws and policies. Workgroup cultures and norms are impacted by the particular context in which the court is situated. Thus, court actors develop their own decision-making processes, but these processes are influenced by local- and state-level factors. At the state level, these factors include legislation, organization, and resources of the system, as well as the political and cultural context surrounding juvenile justice.

One important aspect of this context in Illinois is a changing philosophy regarding youth and youth crime. Currently, a major response to juvenile offenders in Illinois is the implementation of punitive measures. One example is the increased bed space being added by the state through the expansion and addition of facilities. Additionally, many of the juvenile code changes have been largely punitive in nature and effect, reflecting a changing discourse about the way that children should be treated by the justice systems. The issues involved in the Illinois code revision were a point of discussion and debate in Illinois throughout the 1990s. Many of these changes correlate to public perceptions of the severity juvenile crime influenced by several high profile incidents in the state and extensive media coverage of these incidents and the rising rate of violent juvenile crime during the early 1990s. In a recent poll, nearly 70 percent of Illinois respondents still believed that juvenile crime was on the rise, despite recent declines in juvenile arrest rates in many regions and for many types of offenses (Alderden, 1999). As the next section demonstrates, trends in the administration of juvenile justice in Illinois largely reflect this orientation as the rate of formal processing, detention, adjudications, and state level commitments have increased substantially throughout the 1990s. Overall, this points to an increasingly punitive discourse and practice concerning juveniles and juvenile crime.

TRENDS IN THE ADMINISTRATION OF JUVENILE JUSTICE

On a statewide level, the administration of juvenile justice in Illinois changed dramatically during the 1990s, placing increased pressures on both state agencies and local juvenile courts. Because of the vast geographic and demographic differences in the state, the Illinois Criminal Justice Information

Authority (ICJIA, 2000) analyzed overall juvenile justice trends and separated out different regions for comparison purposes.²¹ These differences in size and socio-demographics significantly impact the overall crime and case processing data, as do different practices within these courts. Although this discussion will only summarize these trends, it is important to pay attention to the regional differences in understanding the context of juvenile justice administration in Illinois.

Overall, total juvenile arrests are down in Illinois during the period of 1995-1999 for property offenses (16%), violent offenses (16%), unlawful use of weapon offenses (55%), and drug offenses (8%). Arrests for all categories of offenses are down substantially in Chicago,²² but have increased in various jurisdictions for the different categories of offenses.²³ Chicago accounts for a little over 20% of property arrests, but around 40% of total violent and unlawful use of a weapon offenses, and around 60% of total drug arrests. Consequently, although arrests are down overall in Illinois, there is a great deal of variation by region with regard to arrest trends and the total share of arrests for different jurisdictions, creating different case processing pressures in individual courts.

With regard to court processing, the number of petitions filed in juvenile courts in Illinois has generally increased throughout the 1990s, but this trend varies somewhat due to changing practices in certain courts. In several regions, petition filing increased by 10% to 80% between 1995 and 1998.²⁴ Overall, however, petition filing dropped 9% between 1995 and 1998,²⁵ but is up 42% since 1985. Statewide, adjudications increased 19% between 1995 and 1998, with increases experienced in all regions. Detention admissions have also increased in Illinois. Between 1985 and 1998, overall admissions increased 28%, while pre-adjudicatory admissions increased 26% and post adjudicatory admissions increased 40% (ICJIA, 2000). As indicated previously, detention capacity has increased 69% from 1989 to 2000. Probation caseloads increased 10% throughout the state from 1995-1998. Each region experienced an overall increase in probation caseloads. Additionally, commitments to the state increased 48% from 1995 to 1998. All regions did not experience an increase, and the amount of increase ranged from 28% to 100%, with one region experiencing a 17% decrease.

²¹ For crime rates, they considered rural counties, urban counties outside of the Chicago metropolitan area, Chicago, Suburban Cook County, and collar counties (other suburban Chicago counties). For case processing data, they considered Cook, the collar counties, urban, and rural counties.

²² Violent offenses are down 34%, property offenses 22%, unlawful use of weapon offenses 75%, and drug offenses 20% between 1995 and 1999 (ICJIA, 2000).

²³ Property offenses increased approximately 14% in suburban Cook between 1995 and 1999. Violent offenses increased approximately 81% in urban counties between 1995 and 1999. Unlawful Use of a Weapon offenses increased approximately 86% in urban counties and under 10% in collar counties. Drug offenses increased approximately 64% in urban counties and 27% in the collar counties. (ICJIA, 2000).

²⁴ 82% increase in the collar counties, 21% increase in the rural counties, and a 10% increase in the urban counties (ICJIA, 2000).

²⁵ A large drop occurred in one region which impacted the overall state numbers.

Notwithstanding differences by region and local court, overall case processing through formal petitions, adjudications, probation caseloads, and commitments has increased in Illinois during the 1990s, despite overall drops in crime since the early 1990s. These changes signify a shift towards a more formal and punitive juvenile justice system and are consistent with nationwide trends in the processing of youth in the juvenile court. They further exhibit the changing political context of juvenile justice in Illinois through this focus on more formal and punitive processing of youth. Below, we consider these changes in light of three courts in three different regions of the state.

THE COURT IN THE COMMUNITY

This section examines the administration of juvenile justice in three local juvenile courts. Each of the three courts in the study are highly distinct, subject to different influences at the state, local, and court levels. Specifically, it examines the impact of these contexts through the lenses of legislation, organization, resources, and the court community context.

NonMetroC2

NonMetroC2 is in a small county situated in a rural area, with one of the highest rates of overall and child poverty in the state. It is relatively ethnically and racially diverse compared to many other counties in Illinois, and maintains fewer resources relative to the other courts in the study. Politically, it leaned toward Democrats in the major 1996 and 1998 elections. Although juvenile crime data is not available for this county, overall violent and property crime arrest rates increased slightly from 1994 to 1998, a different trend than throughout most of the state of Illinois.

One impact of legislation on NonMetroC2 concerns the legislative provision that DCFS funds cannot be used to pay for delinquency services for any youth thirteen or older who is adjudicated delinquent. This provision may substantially impact courts without sufficient resources to provide services for these youth, because DCFS served as one outlet for programs and services. In NonMetroC2, this was identified as a problem. This court has limited resources relative to the other courts and must seek alternative means to provide programs and services for youth. The judge in this county is able to maintain a relationship with the local DCFS agency and is able to access services from time to time, but on a limited basis. The other counties in the sample did not report this law as a significant problem in accessing programs and services for youth. Other significant legislative impacts were not found in the data. Respondents noted that because NonMetroC2 operates in an informal manner, actors may make informal agreements regarding the processing of cases that avoid the use of transfer or other more

punitive outcomes, thereby highlighting how court organization and the court community context can mediate the effects of legislation.²⁶

As part of Illinois' court structure, NonMetroC2 is part of a judicial circuit with a relatively large number of other counties.²⁷ One impact this organization has on NonMetroC2 is on the use of adult probation fees to provide programs and services for delinquent youth. Respondents reported that the circuit is not progressive enough in the use of probation fees, despite the amount of fees collected. Thus, because the court organization does not allow for local control of court fees, the needs and desires of local courts may be neglected in determinations of how and where to spend the funds.

Despite the size of NonMetroC2, it does maintain a separate probation department that handles juvenile cases and a public defender and state's attorney primarily assigned to juvenile cases. Probation maintains regular probation services, is part of a diversion program that is also used for placement of youth being processed formally, performs detention screening, and operates an alternatives-to-detention program. The county does not have a detention center, but must send youth to other in- or out-of-state detention placements. Detention screening is performed with a risk assessment instrument and probation uses the standard case management tool developed by AOIC. Probation also uses the Juvenile Assessment and Supervision System (JASS) for case management and assessment. Respondents noted that structured decision making is useful at the probation level because of the high rate of turnover in the department. However, respondents also noted that discretion was important in order to address the individual needs of each youth. Although the size and resources of the county do not allow it to operate a highly specialized probation department, it is able to offer some programs and services that similarly situated counties may not be able to offer.

As discussed briefly above, resources are a major differentiating factor in the administration of juvenile justice in NonMetroC2. The county board does not provide line item funding for programs and services, so the court must be creative and seek alternative ways to fund these programs and services. According to data from AOIC, NonMetroC2 frequently accesses some of the state programs for youth, particularly drug treatment and mental health services. The court obtained a grant to run a detention alternatives program that allows it to rely less on secure detention, although it still uses pre- and post-adjudicatory detention somewhat frequently for a county without a detention center. The court has been

²⁶ One example involves the charging decision with regard to statutorily excluded offenses. In one instance, the judge was able to negotiate with the prosecutor for a lesser charge in order to keep the youth in the juvenile court for services. This occurred because the judge was knowledgeable about the case because of the informal, intimate community and court context. In other contexts, judges may not know as much about these cases, may not have the time or resources to intervene, or this type of intervention may not be permissible. Thus, the prosecutor will have the sole authority to make the decision.

successful in implementing and expanding the diversion program to reach a broader range of youth. This program was expanded to serve both youth who are diverted from the system and those who have been formally processed by the system, especially youth whose cases have been continued under supervision. The court has also been somewhat effective in networking with the regional university and with other social service providers to provide services. While AOIC funds probation officer salaries, respondents noted how restrictions on AOIC funding impact the probation department. These funds cannot be used for overhead, equipment, or cars, which would be helpful for the department.

Despite the lack of funding for programs and services from the county board, respondents in NonMetroC2 reported that sufficient resources were available for dealing with youthful offenders. This is exemplified by the low commitment rate of the court. NonMetroC2 ranked 65th in the state in commitment rate in 1995 and 78th in 1998.²⁸ Additionally, the court uses evaluation commitments infrequently. Table 6.1 shows commitment rates for NonMetroC2. Respondents noted that the court likes to keep youth in the community and access the resources of the community and other services and programs before sending them to the DOC. They also noted that the court has made substantial efforts to access, develop, and create linkages to resources and networks of service providers.

Table 6.1: State Commitment Rates per 100,000 Youth Aged 10-16 in NonMetroC2

	1994	1995	1996	1997	1998
Full Commitments ²⁹	134	65	129	171	85
Evaluations ³⁰	67	22	43	0	0
Total Commitments ³¹	201	87	172	171	85

The court community context provides a framework for further understanding case processing in NonMetroC2. This approach posits that courts create internal case processing norms and cultures, but are embedded in social contexts that help shape these norms and cultures. As noted above, NonMetroC2 is embedded within a rural context. Feld (1991) argues that differences in case processing exist between particular contexts – rural, suburban, and urban. Rural courts operate more informally and leniently, whereas urban courts function more bureaucratically and punitively. These differences are in response to

²⁷ Larger counties may constitute a circuit by themselves or with a limited amount of other counties. Presumably, the more limited the number of counties in a circuit, the more opportunity for those counties to set the policies and procedures of the circuit.

²⁸ Rate per 100,000 youth in the population and rank based upon 102 counties in the state.

²⁹ IDOC data.

³⁰ IDOC data.

the pressures exerted by forces in these different contexts, such as crime rates, poverty, family disruption, political pressures, and media attention.

An informal case processing orientation was observed in NonMetroC2, as respondents noted that many decisions are made through informal discussions and interactions about individual cases. While concerns were raised about the due process implications of this orientation, respondents generally reported that it was effective for dealing with the needs of youth within this court context. The small size and organization of the court allow individuals to get to know one another and interact in an environment where they could create norms about case processing. The relatively low level of resources maintained by NonMetroC2 also requires that decision makers come to reach certain agreements regarding the processing of cases so that they can maximize these resources and still provide youth with the services they need.

An important part of the court community context involves the structure of relationships and authority in the court. Within NonMetroC2, the presiding judge maintains a great deal of respect from the various departments and court actors, and was viewed as the primary authority in the court. This judge is recognized as a juvenile justice leader locally and statewide. According to respondents, this judge has been influential in setting policy and practice for the court, as well as in creating networks with the community. Respondents credited the presiding judge with establishing many of the practices of the court. Many of the examples and aspects of the court community highlighted in this discussion are a reflection of the leadership of the judiciary in NonMetroC2.

Data on case processing in NonMetroC2 are highly reflective of the orientation of the court community. Table 6.2 reports rates of petition, adjudication, and case Continued Under Supervisions (CUS) in NonMetroC2. According to the Illinois Criminal Justice Information Authority (ICJIA), NonMetroC2 maintains one of the highest petition rates in the state, and this rate has increased between 1994 and 1998. Case intake is performed through the State's Attorney's Office and the high rate for NonMetroC2 requires scrutiny regarding the intake process. Despite its high petition rate, however, NonMetroC2 only adjudicated about 50 percent of formally petitioned cases in 1998, leading to a much lower adjudication-to-petition rank statewide. One reason for this is because NonMetroC2 frequently uses a legislative provision that allows the court to continue a case under supervision (CUS).

³¹ IDOC data.

Table 6.2: Rates of Petition, Adjudication, and Case Continued Under Supervision per 100,000 Youth Aged 10-16 in NonMetroC2

	1994	1995	1996	1997	1998
Petitions ³²	2630	NA	NA	3008	4074
Adjudications ³³	1359	1873	2148	1408	2005
Continued Under Supervision ³⁴	357	501	1224	875	1451

Respondents noted that the court likes to use this mechanism because it provides for services and supervision without a formal adjudication. Typically, probation will create a plan for services and supervision, and if the plan is followed, the case is dismissed, but if not, the case returns to the court. Although respondents reported that a high percentage of youth may violate this plan, the court does not automatically move to an adjudication, but considers the circumstances and whether the case should be continued on CUS or dismissed.

MetroC

MetroC stands in stark contrast to NonMetroC2. It is located in a large county situated in an urban context and with pockets of high poverty, single parent households, unemployment, and crime but also pockets of affluence. It is extremely racially and ethnically diverse, and maintains relatively high levels of resources compared to NonMetroC2. Juvenile crime dropped substantially in this county from 1994 to 1998. However, MetroC is situated in a highly political county and faces vast scrutiny and pressure from the community, media, and state.

Changes in transfer legislation have impacted case processing in MetroC. In Illinois, statutory exclusion provisions have overwhelmingly affected MetroC compared to the rest of the state. Data on the number of statutorily excluded cases are incomplete,³⁵ but available data do show that over 90 percent of cases in Illinois transferred through this mechanism are from MetroC, while MetroC accounts for a much

³² AOIC data

³³ AOIC data

³⁴ AOIC data

³⁵ Data is kept on transferred youth held in detention centers, but not on transferred youth who are subsequently released pending trial. Consequently, the total number of youth transferred is unknown. Additionally, because the maximum age for juvenile court jurisdiction in Illinois is 16-years-old, 17-year-olds are not counted in statistics on transfer.

lower percentage of state discretionary transfers.³⁶ Respondents throughout the state reported how juvenile code changes, particularly those regarding transfer, have primarily been directed toward this county. One example is the statutory transfer provision that excludes all fifteen- and sixteen-year-olds who violate the Illinois Controlled Substances Act within 1,000 feet of a school or public housing. The *Report of the Legislative Committee on Juvenile Justice* (1996) and *Detention Report* (1999) found that a substantial number of cases are transferred by this mechanism in this county and that the statute covers vast portions of the county because of the large number of schools and public housing sites, whereas other jurisdictions are not covered as substantially.

A recent report revealed the dramatic racial impact of these transfer provisions. This report found that over the course of one year, 258 of the 259 (99%) of the youth transferred through this mechanism were non-white, with the vast majority being African Americans. In conjunction with the disproportionate number of youth transferred through statutory exclusion provisions compared to judicial discretion provisions in MetroC, it is safe to infer that Illinois' statutory exclusion provisions create large disparities in the racial makeup of children treated as adults in the county. Furthermore, the report indicated that only about 9 percent of the youth transferred through this provision are sentenced to the Department of Corrections with almost 50 percent of these waived cases being dismissed in the adult criminal court. This indicates that the adult criminal court is not the proper forum to try many of these cases. Thus, this is one example of how legislation may be targeted toward and/or impacts particular groups and jurisdictions more than others.³⁷

As previously discussed, the State's Attorney's Association drafted the revised juvenile code, symbolizing their significant role in juvenile justice policy and practice. MetroC exemplifies the substantial role that prosecutors play in the juvenile justice system. The head juvenile State's Attorney in MetroC played an instrumental role in the drafting and passage of the juvenile code according to several respondents at the local and state levels. Some respondents noted how the State's Attorney advocated for more rehabilitative aspects when the bill was criticized for being too punitive and gave the State's Attorney a great deal of credit for the overall passage of the bill. Additionally, respondents noted that the State's Attorney's Office has gained considerable power in the court and in case processing policies and practices. This increased role that prosecutors play in case processing has substantial implications for the court because the goals of State's Attorney's offices often conflict with treatment or rehabilitative practices.

³⁶ See Chapter 3 for a discussion of these provisions.

³⁷ Additionally, the size of MetroC makes it more difficult for decision makers to intervene at various decision making points. Whereas in NonMetroC2 the judge was able to reach an agreement with the prosecutor about a charge that avoided statutory exclusion, this is more difficult to do in a large court where decision makers are less able to have knowledge of the details of cases coming into the court.

In contrast to NonMetroC2, MetroC is a large court with highly specialized departments. The majority of judges are situated in the central court building,³⁸ but several are now located at district courthouses in suburban areas of the county. The court does not use magistrates or referees to hear cases, providing judges with the duty to hear all cases. The court retains a relatively small number of judges compared to other courts in the study and the caseload of judges in MetroC is substantially higher than in the other Illinois courts in the study. Respondents noted that judges do not have a great deal of time to deal with each case. This is a substantial problem for the court that has been addressed somewhat by increases in the number of judges and decreases in the number of detention hearings and formal petitions but still requires that the court seek ways to relieve the caseload pressures on judges and the court.

Judges are involved in detention hearings and all other aspects of formal case processing. The presiding judge maintains authority over the practices and policies of the judges in the court, but these judges also maintain substantial discretion in their individual courtrooms. However, the impact of recent statutory exclusion provisions removes much of the discretion of judges with regard to judicial discretionary waivers. Courtrooms cover specific geographic regions allowing judges to become more familiar with issues in those areas. One courtroom is devoted to cases identified by probation officers or other court actors to require specialized services. The judge in this courtroom hears all these cases and the county has provided funding to place these youth in either in- or out-of-state residential placements. In several of the district courthouses, a pilot program is attempting to establish a unified family court model where one court is devoted to all family-related matters. The number of juvenile judges has grown since 1994, but the petition-to-judge ratio in MetroC is still substantially higher than that in the other two courts in the study, speaking to the large volume of cases that flow through the court and the case pressures on individual judges.

The State's Attorney and Public Defender's Offices are large and experience a high degree of turnover. The State's Attorney's Office maintains authority over case intake, providing different case processing pressures depending on the department's policy toward diversion and formal processing. As discussed later, a shift in the intake policy by the State's Attorney is credited in part with reducing the number of formal petitions filed in the court. The probation department is large and highly specialized and has grown since the early 1990s. Probation is involved in the detention screening process, intake, informal supervision, pre-adjudication services, home confinement, intensive probation, regular probation, and in providing special services. A special unit consisting of female probation officers is now assigned to handle all female probation caseloads and a separate risk assessment instrument is used in cases involving females. This is an example of how diversity and specialization allows the potential for

³⁸ The main court is a large complex that includes the detention center and houses all the various departments.

more attention to be placed on the varying needs of youth in the system. MetroC also maintains a social services unit that provides a number of services and programs for delinquent youth.

The county board and other sources provide MetroC with resources to operate a variety of programs and services for youth. Although many respondents did not feel that the resource levels were sufficient, they did acknowledge that the court has some options with regard to placements. Since 1994, MetroC has been more active in developing programs and services for youth involved in the juvenile justice system. It is currently part of a foundation project to provide alternatives to secure detention. The detention center located in the court building is large but is often extremely overcrowded. As part of the project, a detention-screening instrument developed by the National Center for Crime and Delinquency (NCCD) was implemented to standardize the criteria for secure detention and the instrument has undergone a number of revisions. Alternatives were developed to reduce the use of pre- and post-dispositional reliance on secure detention that include community supervision, home confinement, evening reporting, electronic monitoring, and staff secure shelter. This program is credited with reducing reliance on secure detention, reducing overcrowding in the detention center, and providing more options for services. However, the detention center still remains drastically overcrowded with the average daily population often 50% over rated capacity. This continues to be an issue that MetroC must address as it seeks to address the needs of the juvenile population.

Besides the alternatives to detention options, MetroC operates a number of different programs designed to divert youth from formal processing in the system or to provide specialized services. These include a juvenile drug treatment court program, a juvenile sex offender program, a violence intervention/prevention program, an employment program, and a child victims of sexual abuse program. Under the Balanced and Restorative Justice Initiative, MetroC has developed a number of programs that seek to provide or facilitate informal or community processing. These include victim impact panels, a victim advocacy program, station adjustment collaboration, community liaison programs, and diversion compliance programs. Essentially, MetroC maintains resources to develop a variety of different programs for delinquent youth. It is beyond the ability of this analysis to determine the sufficiency of these programs, but the emphasis on the development of programs and services does indicate leadership within the court and community to provide options for youth.

Similar to NonMetroC2, the court community paradigm provides a framework for assessing case processing in MetroC because of its focus on the embedded nature of the court context and the court context itself. As indicated above, MetroC is situated in a highly political context and high profile cases have focused media, political, and public attention on the court. Overcrowding at the detention center has drawn considerable legal and public attention. Numerous high profile cases of youth violence have occurred in the county, increasing the scrutiny on MetroC both in the local and national press.

Respondents noted that this scrutiny has impacted decision making in the court because decision makers want to avoid being blamed in a high profile case.

The urban context within which MetroC is set also presents certain pressures on the court with regard to case processing. Feld (1991) argues that the factors associated with urban contexts lead toward more punitive and legalistic orientations for case processing. MetroC handles considerably more violent and drug offenses than other regions in the state. Poverty is high in certain pockets of the county, creating additional pressures as a large percentage of cases come from police districts in these high poverty areas. The county is also highly racially and ethnically segregated and encompasses both urban and suburban areas.

Despite these pressures, MetroC has experienced some substantial changes. Overall, respondents reported that the culture and practice of the court had changed considerably and that many of these changes had improved its ability to effectively handle its caseload, although they believed that more change was needed. Respondents in MetroC and throughout the state noted how the presiding judge made significant strides in reforming case processing in the court. The list of reforms include the addition of more judges to handle the large volume of cases, the funding and implementation of numerous programs and services for youth in the court (including a notification program to reduce the failure-to-appear rate in the court), and other reforms to make the system more efficient. Respondents credit this judge with attempting to change the culture and practices of the court. Additionally, respondents reported that a change in leadership in the State's Attorney's Office also sought to change the culture and practices of that office toward less formal processing of youth. This is an important direction because of the role that the State's Attorney's Office plays in case processing. Some respondents noted, however, that the culture and practices of the State's Attorney's Office still create tensions and are often at conflict with treatment-oriented ideals and practices.

In addition to these two offices, respondents noted that the Public Defender's Office and Probation Department have also been active in court reform. The Public Defender's office is nationally known for its work in the juvenile court and has served as a constant voice in the court. The Probation Department has been part of a number of reforms, including detention screening and the implementation of case management tools. Probation has also expanded the services and programs that it provides to fit the changing needs of the youth population, including the creation of a unit to handle the cases of female offenders. One respondent noted, however, that probation is seemingly operating as an arm of the State's Attorney's Office.

Case processing data highlight some of these changes. Since 1985, the number of petitions filed in the court grew until 1994. A large percentage of overall petitions come from a small portion of the

county.³⁹ Much of the growth in petitions can be attributed to drug and person offenses.⁴⁰ As Table 5.3 indicates, the formal petition rate dropped slightly from 1994 to 1995 and more dramatically in 1996-1998. This is, in part, the result of the drop in juvenile crime in the county, but also a result of changing practices in the court. Prior to the change in leadership in the State's Attorney's Office, it was reported that the intake policy was to file a formal petition on nearly every case. However, the new policy in the office is to divert more cases from formal processing. This change has helped to contribute to a reduction in petitions and in the flow of cases into the system. As Table 6.3 also indicates, the number of petitions adjudicated increased dramatically from 1994 to 1998. In 1994, approximately 60% of cases were dropped before an adjudication, as opposed to 30% in 1997.⁴¹

Table 6.3: Rates of Petition and Adjudication per 100,000 Youth Aged 10-16 in MetroC

	1994	1995	1996	1997	1998
Delinquency Petitions ⁴²	4,340	4,187	3,714	3,375	2,984
Delinquency Adjudication ⁴³	767	1,364	1,505	1,367	1,488

These findings have several meanings. First, the court is diverting more cases away from formal processing. These cases may be dismissed altogether, receive a probation adjustment, be diverted to community-based services or programs, or be put on informal supervision. Second, the filtering of cases reduces case pressures on the court and results in more attention to the cases remaining in the formal court process. This is exhibited by the increases in the adjudication-per-petition ratio from 1994 to 1998 and indicates how the removal of cases at certain points in the system can change the operation and practices of the court. Finally, the court has been able to maintain more control over and provide more services to youth as the total number of petitions has decreased. While it is difficult to tell whether this is a result of more personnel and program options or a result of more efficient handling of cases, the probation caseloads for MetroC increased 24% from 1994-1998.⁴⁴ Probation uses the instrument developed by the AOIC for case management purposes and has used the Strategies of Juvenile Supervision (SJS). While

³⁹ Court Intake Report, 2000.

⁴⁰ Court Intake Report, 2000.

⁴¹ Court Intake Report, 2000.

⁴² ICJIA, 2000; Intake Report, 2000.

⁴³ ICJIA, 2000; Intake Report, 2000.

⁴⁴ This includes formal probation, intensive probation, and informal supervision.

some respondents noted that structured decision making can be useful for case management, probation officers indicated that they did not like these instruments and often did not use them.

Further evidence of change in the court is included in Table 6.4. Table 6.4 shows the increase in the rate of commitments to the state DOC for MetroC. Although the share of commitments of this county to the state did not change significantly during this period, the number of full and evaluation commitments doubled between 1994 and 1998. Part of this may be attributed to more adjudications, as the commitment-per-adjudication rate stayed fairly stable between 1994 and 1998.⁴⁵ Part may also be attributed to an overall statewide trend to commit more youth to the DOC.⁴⁶ Whatever the source of this increase, it is important that MetroC determine the factors associated with the practice to commit more youth to the IDOC.

Table 6.4: Rates of Commitment to IDOC in MetroC

	1994	1995	1996	1997	1998
Total Youth in IDOC ⁴⁷	123	128	204	214	242
Full Commitments ⁴⁸	85	90	160	162	180
Court Evaluations ⁴⁹	4	7	7	6	5
Felons ⁵⁰	19	16	16	15	15
Parole Violations ⁵¹	15	18	21	31	42

As Table 6.5 indicates, a small part of the increase in commitments to the DOC may also be a function of the increased focus on drug crimes. The proportion of total petitions for drug crimes has increased dramatically in MetroC and the treatment of these crimes has become increasingly punitive. As Table 6.5 indicates, the number of drug commitments has increased more than 400 percent from 1994-1998. The number of person crime commitments has increased 56 percent during this period, while the number of property crime commitments has increased 71 percent. This is occurring despite large decreases in the juvenile crime rate in the county and indicates that responses to youth crime are changing in MetroC.

⁴⁵ The rate dipped in 1995, but stayed between 11% and 12% during the other years.

⁴⁶ All regions experienced an increase except for the collar counties.

⁴⁷ IDOC data; ICJIA data.

⁴⁸ IDOC data; ICJIA data.

⁴⁹ IDOC data; ICJIA data.

⁵⁰ IDOC data; ICJIA data.

Table 6.5: Offenses of Youth Committed to IDOC in MetroC

	1994	1995	1996	1997	1998
Person Crimes	319	335	476	450	499
Property Crimes	160	176	237	250	274
Drug Crimes	91	93	237	322	393
Sex Crimes	24	18	31	30	27
Other Crimes	2	0	1	1	1

Additionally, MetroC has sent an increasing number of youth to in- and out-of-state residential placements and treatment facilities, many of which are funded by the county. Respondents indicated that more scrutiny is being placed on the number of youth going to these placements because of the high costs, but it is unclear what impact this has had on the number of youth being sent to these placements. While the exact nature of these facilities cannot be determined by available data, they do represent out-of-home placements in many cases.

Overall, MetroC experienced a great deal of change from 1994-1998. Many respondents noted that the change was in a positive direction, but they did indicate substantial problems remaining in the administration of justice in MetroC. Much of the change can be credited to the leadership of the court and the focus of this leadership on changing the processing of cases and the range of programs and services available to youth. This speaks to the effect that judges and other court actors can have on case processing. Attention must be paid to the overall direction of change, however, to insure that the court continues to find ways to handle youth without a reliance on formal processing and that the court identifies the types of cases that it commits to the DOC. Further attention must be paid to the amount of control that the court exerts in different parts of the community. This includes attention to the racial impact of legislative provisions and court practices on youth in the county. Finally, MetroC must also improve its information systems so that relevant information is available to both track youth processed in the court and to understand the practices of the court.

NonMetroC1

NonMetroC1 is situated in a relatively small county in the central part of the state, but is regarded as an urban county relative to other Illinois counties. It is largely racially and ethnically homogeneous, experiences low poverty rates, and has relatively high levels of resources. Juvenile crime data are not

⁵¹ IDOC data; ICJIA data.

available for this county, but available data on overall arrests show a drop in crime from 1994 to 1998 and a substantially lower crime rate than the other courts in this study.

Respondents in NonMetroC1 did not report many effects of legislation on their court. Transfer is not used very often by the court, and it has a relatively high level of resources so it is not substantially impacted by the resource structure of the state. One aspect of legislation and policy that has increasingly impacted the court is evaluation commitments. Table 6.7 reports the state commitments of NonMetroC1. As indicated, NonMetroC1 uses evaluation commitments rather frequently. Respondents noted that the court uses evaluations to provide youth with a "taste" of what DOC is like, but without a full indeterminate commitment so that the court can maintain more control. Evaluations also provide more information on the youth for the court to consider.

The organization of the court is more diverse and specialized than NonMetroC2, despite their somewhat comparable population sizes. The department runs regular probation services, intensive probation, court intake, extended day detention, and an early intervention program, allowing it address the various perceived needs of the youth population. One judge primarily hears juvenile cases, and one attorney from each of the State's Attorney and Public Defender's Offices is primarily assigned to juvenile cases. Respondents noted that caseloads for each of these departments was fairly high and taxed the resources of the court. Detention staff perform detention screening and use a risk assessment instrument developed in conjunction with AOIC. Probation attempted to use risk assessment as a case management tool, but found the current instruments cumbersome or ineffective. This is represented by the department's policy to make all cases maximum supervision for the first 45 days and then to reduce supervision at that point. A screening tool is also used to determine whether a youth should be in the early prevention program. Respondents still noted that despite the limitations of the current tools, risk assessment was fairly useful and the department was seeking to pilot other instruments for the state.

NonMetroC1 maintains a variety of resources to operate the different programs and services in probation and the court. As noted above, AOIC pays for regular and intensive probation officer salaries to match caseloads. NonMetroC1 received line item resources from the county board and was also active in obtaining resources from grants. Respondents noted that when a grant recently ran out for a particular program, the county board was willing to provide the funding for the program. These resources enable the court to provide a diverse set of programs and services despite its relatively small size, including out-of-state, county-funded placements when necessary. Among these are an early intervention program that focuses on the delinquent behavior of younger juveniles.

Again, the court community context provides a good framework for examining the processing of cases in NonMetroC1. The context of NonMetroC1 does not present many of the same social contextual problems as the other courts. The county is relatively affluent and does not face a particularly high crime

rate. NonMetroC1 is set in a relatively small and conservative county. According to respondents, the presiding judge is the main authority figure in the court and sets the tone for the practice of the court. Part of this tone is the thoroughness of the judge in considering the factors of each individual case. Social investigations are routinely long and detailed, and the judge takes great care in examining each one in making case decisions. The diversity and practices of the probation department allow it to monitor, supervise, and evaluate cases fairly thoroughly. Respondents noted that the public defender and state's attorney were fairly young and inexperienced and that there was a lot of turnover in those positions.

The Probation Department and State's Attorney's Office handle intake, with probation making decisions on misdemeanors and sending felonies to the State's Attorney to make the decision on formal processing. Respondents noted that although they may be lenient on a first offense, subsequent offenses will be dealt with in a more formal manner. Table 6.6 shows that the rate of formal petition stayed relatively stable from 1994 to 1997, but dropped from 1997 to 1998. Overall, NonMetroC1 has one of the lowest petition filing rates in the state. The adjudication rate remained approximately the same from 1994 to 1998, but the proportion of petitions adjudicated rose in 1998. Respondents noted that the policy of the court was changing to discourage the use of more informal processing and to focus on more formal processing. These data do not fully indicate whether this practice is occurring, but the 1998 figures do show an increased focus on adjudications and a decrease in CUS. The drop in the number of formal petitions may also contribute to this, as lower petition rates decrease the workload of the court, which respondents noted was very high.

Table 6.6: Rates of Petition, Adjudication and Case Continued Under Supervision per 100,000 Youth Aged 10-16 in NonMetroC1

	1994	1995	1996	1997	1998
Petition	1,447	1,343	1,419	1,485	1,143
Adjudication	790	723	690	754	816
Continued Under Supervision	283	159	71	218	124

Despite its array of resources, NonMetroC1 has one of the highest commitment rates in the state.⁵² Table 5.7 reports the rates of full and evaluation commitment for NonMetroC1 from 1994 to 1998.

⁵² 17th out of 102 in 1998 (ICJIA, 2000).

Respondents noted that this is related to several factors. First, the court will use an evaluation commitment first and then will use a full commitment if the youth does not respond to the evaluation commitment or if the youth commits a subsequent offense or violates subsequent court orders. Second, respondents noted that the probation department has become effective at monitoring and supervising youth. This may be in part due to the resources and services that the court offers or due to the practice of the probation department (i.e., maximum supervision for the first 45 days of each probation case). Additionally, respondents noted that the high commitment rate may be due to the practice of the court to generally give probation on the first offense, but to utilize commitments more often for subsequent offenses. Whatever the source(s) of the high commitment rate of NonMetroC1, it is important that it examine the practices and factors associated with these commitments.

Table 6.7: Rates of IDOC Commitments per 100,000 Youth Aged 10-16 in NonMetroC1

	1994	1995	1996	1997	1998
Full Commitments	33	72	235	202	155
Evaluations	67	103	118	117	171
Total Commitments	100	175	353	319	327

CONCLUSIONS

We observed a number of factors that differentiate the administration of juvenile justice in Illinois' juvenile courts. Despite its theoretical uniformity, legislation impacts courts differently and courts use legislative provisions differently in case processing. This points to some of the limitations and problems with using legislation to reform the juvenile justice system, as legislation often addresses narrow issues or is promulgated in response to changing practices or high profile events. Although the legislature attempted to systematically address the system in the 1998 code revision, many members of the Illinois juvenile justice community are skeptical about whether this was accomplished. Legislation does serve, however, as a reflection of the mission of the system, and in the case of Illinois, this mission has become increasingly punitive during the 1990s.

The organization and resource structures of the state and county systems are also important differentiating factors in the administration of juvenile justice. The courts in this study are all different in their combination of size, diversity, and resources. The programs and services available from the state provide some options for courts, but the state does not respond to the particular needs of individual counties. Providing courts with flexibility in the way that they can spend money, instead of providing money for specific purposes, is one way that states can respond to differences at the local level. Large

court size and/or many resources in these three courts can result in a more diverse probation department that not only can deal with diverse "needs," but can deal with more youth and provide increased supervision over these youth. While this may hold youth more accountable for their behavior, attention must also be paid to the amount and type of control exerted by the system to insure that the system is accountable.

The court community is also a major differentiating factor in the administration of juvenile justice in these three courts. Each of these courts is embedded in a different context that exerts pressures and provides resources that lead to different court structures. The court community reflects these contexts, but members of this community (judges, probation officers, prosecutors, and defense attorneys) develop their own case processing norms. The court community is an important sight of inquiry for decision making and case processing which helps to explain the vast differences in practices found among courts.

CHAPTER 7
INDIANA
**THE COURT IN THE COMMUNITY:
CONTEXTUALIZING THE ADMINISTRATION
OF JUVENILE JUSTICE**

Indiana is the most rural and stable, demographically and economically, of the four states in our sample. Nonetheless, most (63%) of its 6.1 million people live in 14 urbanized areas. The population increased only ten percent between 1990 and 2000, but the child population increased more slowly, from 28.5 to 29.3 percent. Most youth live in urban areas, with 35 percent concentrated in the four largest counties. Indiana's economy improved in the 1990s, as did that of most states, but poverty continued to disproportionately affect children. Child poverty increased from 14 to 15 percent; seventy-five percent of welfare recipients were children. As might be expected, child poverty was concentrated in the four largest counties, as were persons of color. Indiana's racial composition changed only slightly during the 1990s, remaining primarily white (89%). The Hispanic population doubled but still was only 3.5% in 2000. Seventy-eight percent of the African American and 62 percent of the Hispanic population is concentrated in four counties. However, the percentage of youth of color is higher than the percentage of people of color in the total population. Thus, these four counties differed substantially with respect to key demographic characteristics from the rest of the state.

The services and authority of state government in Indiana are limited by available resources and by the constitutional authority given to counties which has produced strong county governments. Nonetheless, both the state juvenile justice system and the county courts are dynamic and have adapted to national, state, and local policies, needs, and demands. The legal system, through the juvenile code and through litigation about juveniles, has reduced some of the considerable autonomy of county courts. Several national policies have also encouraged counties to yield to statewide oversight and reform, primarily to be eligible for federal grants. Regardless, in actual application, many of the policies from the state and federal governments have been adapted by counties to local needs. Through all of these changes, the leadership of county judges and other local officials has remained prominent, in terms of the extent of processing and the types of resources that youth receive.

STATE-LEVEL FACTORS

Legislation and Higher Court Decisions

The Indiana juvenile justice system has been influenced by the following three important decisions from state and federal courts:

1. *Ratliff v. Cohn* (Indiana Supreme Court):¹ Incarceration of a child in an adult prison violates the Due Process Clause of the Fourteenth Amendment and the Eighth Amendment to the United States Constitution. The unanimous decision stated that juveniles cannot be housed with adults. Donna Ratliff was placed at the age of 14 in the maximum security Indiana Women's Prison in Indianapolis after she was convicted of burning down her house and killing her mother and sister in retaliation for a lifetime of physical and sexual abuse at the hands of her own family. According to the ACLU of Indiana, which represented her, Ratliff was physically threatened and sexually harassed by the older inmates, including some considered by prison officials to "display severe psychological disorders." As a result of the ruling, Ratliff was transferred to an institution for young offenders.²
2. *W.C. v. DeBruyn* (U.S. District Court, Southern District of Indiana IP 90-40-CB/S): The Court issued an order and consent decree regarding overcrowding at Plainfield, a state training school.³ Plainfield has been governed by a number of consent judgments back to 1991. Indiana Department of Corrections instituted a risk assessment instrument to assist in the determination of where a youth is assigned and how long he or she remains in a state facility.
3. *Hodgkins v. Goldsmith FN* (U.S. District Court, Southern District of Indiana): 2000 U.S. Dist. Lexis 11801. The Indiana Statute governing curfew violations was ruled unconstitutional under the Fourth Amendment, because it required breath and urine tests.⁴ Curfew sweeps occurred in five geographic districts of this county and every juvenile who was in violation of curfew was arrested. When a youth was arrested during a curfew sweep, he or she was taken to community sites, like churches and schools, so that the community could be involved. Volunteers from the community helped process arrested youth. All youth

¹*Ratliff v. Cohn*, 693 N.E.2d 530 (Ind. 1998)

²"Housing children with adult inmates is not only inhumane but is likely to backfire and spark more crime," one judge said. "Recent studies have shown that children incarcerated in adult prisons are significantly more likely to commit future crimes, as compared to children held in juvenile facilities."

³The same court has also enforced a consent decree against the county jails. Detention centers for juveniles are also being monitored for overcrowding.

⁴"... a class action challenge to the State's curfew law, both on its face and as applied in [this] County where youths who are picked up are allegedly subject to interrogation, without waiver, as well as mandatory urine and breathalyzer tests. The trial court recently entered summary judgment for the plaintiffs finding that the curfew law was unconstitutional and that the required breath and urine tests violate the Fourth Amendment. The City is appealing." Available at <http://www.iclu.org/litigation.html>. The city of [] and other cities responded quickly by creating new or revising existing municipal ordinances to take the place of the state law, which could not change for a year because all Indiana state statutes take effect July 1.

were given breathalyzer and urine tests after the initial intake process, and the results were recorded.

The first two decisions were instrumental in furthering the development and use of a risk assessment instrument in the Indiana Department of Corrections (IDOC) that assigns youth to appropriate programs and determines their length of stay at IDOC facilities. These decisions also affected codes that require detention regulation by IDOC. While the jurisdiction of the court was curtailed by the code changes in 1991, 1995, and 1997, the legislature left county judges with considerable discretion.

Juvenile Code Revisions

In addition to the topics discussed in Chapter 3, the Indiana code directly affects case processing by limiting detention uses and proscribing several specific case processes such as the preliminary inquiry and the predisposition report. The legislature can affect how the courts perform in two ways. Where the code restricted or mandated actions of judges and court employees, the legislation has removed some discretion from judges and substituted fixed rules. When the code suggested actions to judges, the legislation has attempted to guide the court without eliminating its discretion.

The changes to the code addressed here are consistent with other code changes that moved juvenile courts toward a model stressing individual accountability and responsibility and away from rehabilitation and system accountability. These code changes also reflect influences from federal legislation and appeals decisions about incarcerating juveniles, the appropriate use of detention, and the expansion of detention alternatives. The 1997 changes regarding the preliminary inquiry afford intake officers less control over information about cases and increase the potential control of the prosecutor. Intake workers are to take "no action" only when probable cause does not exist that a delinquent act has occurred. Regardless, the ultimate authority to file a petition in the juvenile court remains with the judge, as the code acknowledges.

The 1997 changes also specify criteria for detention⁵ and require detention facilities to conform to licensing standards and regulations adopted by the IDOC (rule 210 IAC 6). In addition, the code reflects standards promulgated by the JJDP Act such that "[t]he architectural and operational configuration of the juvenile facility must assure total separation" from adult prisoners.⁶ These changes represent a significant insertion of state authority in an area typically controlled by the county and the courts. Detention funding remains the responsibility of the county, and detention facilities (to the extent

⁵IC 31-37-6. Separate criteria are applied for CHINS. IC 31-34-5.

⁶IC 31-31-8. Juvenile Detention and Shelter Care Facilities.

that they exist as separate units) are under the auspices of the juvenile court. Courts can also contract with other agencies for detention beds.

Detention certification and regulation is also assigned to the IDOC by the 1997 statutes. The state developed 306 detention standards. Implementation began in 1996 and will be phased in over seven years. IDOC is assigned responsibility for yearly audits of detention facilities. Further assertion of State control over detention is facilitated by expansion of detention alternatives, especially home detention. Home detention is expanded under the IDOC's statewide Community Corrections Program as a short-term alternative to detention for youth who admitted the offense and are willing to live by the restrictions involved.⁷ Home detention is not just used to prevent overcrowding but also as a new case processing resource. Some courts use home detention as a pre-disposition alternative to detention to relieve overcrowding and to obtain more information for the disposition. Short-term detention has also been a disposition option in Indiana for some time. In 1995 the option of detention in "the juvenile part of the county jail" was removed, consistent with the federal JJDP Act, but the maximum term for disposition detention was extended, depending on the youth's age.⁸

The Indiana juvenile code also attempts to constrain disposition decision making through three sections concerning the predisposition report (IC 31-37-17),⁹ the disposition hearing (IC 31-37-18)¹⁰ and disposition decrees (IC 31-37-19).¹¹ The code primarily guides the juvenile court in its decisions, especially in the chapter on the disposition hearing, but these chapters also mandate other decision makers, including the IDOC, the clerk of the court, the department of health, the bureau of motor vehicles, the petitioner, and law enforcement agencies. As might be expected, the judge is allowed discretion, but the other decision makers are mandated to act.

⁷IC 35-38-2.5-7. The length of home detention must not exceed the "minimum term of imprisonment prescribed for a felony ... or the maximum term of imprisonment prescribed for a misdemeanor." IC 35-38-2.5-5.

⁸It was extended from 30 to 90 days if less than 17 years or not more than 120 days or the maximum term for an adult conviction if the youth was more than 17 years.

⁹Section 17 requires the judge to order a probation officer to prepare a pre-disposition report on the delinquent child. The remaining sections of the code guide the judge about: child conferences, special education services, participation by parents, financial responsibility, concepts of least restrictive alternatives and family participation, and the preparation and distribution of predisposition reports.

¹⁰Section 18 mandates who must be present, who should receive the report, the limits of the decree, and what the decree should include in general terms.

¹¹Chapter 19 mandates that judges "may not" place a delinquent child in a shelter; they may not commit a child to IDOC who is less than 12 years old unless they have committed murder, for which they must be at least 10 years old; judges shall provide law enforcement agencies with decrees specifying temporary restraining orders; and judges must limit confinement of youth in detention, and must provide individual, family and school services for youth detained

Court Structure

The structure of the court system has encouraged local autonomy in courts, but recently some uniformity was directed by the Supreme Court through the Division of State Court Administration (SCA). Judges are affiliated through the Court Administrator's office as members of a professional association, the Indiana Judicial Conference. The Judicial Administration Committee of the Indiana Judicial Conference performs oversight functions. The Judicial Center staffs the Judicial Conference, and its functions are consultative and evaluative. For example, the Judicial Center has gathered data about the time judges spend on case-related activities in order to distribute the judicial tasks more evenly. The Judicial Administration Committee of the Indiana Judicial Conference has developed a weighted caseload measurement for Indiana trial courts to develop parity of judicial officers among counties.

In addition to judicial caseloads, the Supreme Court, through the SCA, has addressed probation caseloads, automated information systems, and delays in hearings for children in foster care.¹² Their authority over county courts is largely indirect, but they have intervened in several ways: through judicial committees, recommendations to county governments, grants for special projects and legislative "campaigns" for additional judicial officers. The SCA has attempted to influence courts directly through professional associations (like the Indiana Judicial Conference and the Juvenile Justice Improvement Committee) and technical assistance (through the Judicial Center). The SCA has made a concerted effort to get courts to understand their common problems and to accept solutions that are consistent and uniform.

The SCA has also used indirect methods like private, non-governmental agencies to encourage juvenile courts to become more responsive to the problems identified in the consent decree on detention practices. The Indiana Juvenile Justice Task Force (IJJTF), for example, provides staff support for the Indiana Detention Association, a newly formed association to create more professionalism and uniformity among detention facilities. IJJTF provides training for juvenile detention personnel, probation staff, public defenders and law enforcement to ensure that changes in the code do not result in inappropriate processing of children in adult courts.¹³ In Indiana, there are 21 regional detention centers,

longer than 30 days. Judges are required to suspend driving privileges for youth who committed some drug offenses, vandalism on school property, and "institutional criminal mischief" (graffiti).

¹²The court improvement grant (project) addressed management of abused and neglected children at the urging of the U.S. HHS, the American Bar Association). Increased attention for neglect/abuse cases has expanded community resources for CHINS cases (wraparound, special advocate programs, therapeutic foster care).

¹³In addition to demands of the consent decree, Section 223a of the federal JJDP Act addresses the four core requirements in order to get the full allocation of Formula Grants: deinstitutionalization of status offenders.

16 county-run facilities, 3 private and 2 run by sheriffs. The IJTF also collects data on overcrowding in and the use of detention centers.

Many of these reforms have had direct effects on case processing. Although fully integrated automated information systems are extremely rare in Indiana, the standards for data collection set by SCA with the QUEST system have had some unanticipated consequences for case processing. One court suggested that probation review hearings have increased restrictions on probation cases, because more information about youth is available to judges from QUEST which includes probation case notes.¹⁴ Another potential effect on case processing is QUEST's ability to share information both within the court and among agencies.¹⁵ Eventually the QUEST system will be designed to share information among child serving agencies through the Indiana Child Welfare Information System (ICWIS).

Resources

Indiana state resources have affected juvenile court decision making in the following three ways: judicial salaries, commitments to IDOC, and the distribution of federal funds.¹⁶ The state funds all judicial salaries, which means that the legislature, through a political process, determines how many judges will be provided to each county. However, individual counties decide how to assign and to structure their judges (see Appendix A, Figure D, Indiana Juvenile Justice Process).

The legislature also funds half of the cost of commitments to IDOC. All other expenses of the court are funded by the county. Counties have resisted state attempts at control, but when state planning has included additional funds, counties seem to have responded quickly. Such was the case with the two types of federal block grants and their influence over some aspects of juvenile court decision making, such as home detention.

Aftercare services from IDOC commitments provide a good example of how this kind of dual accountability for resources negatively affects youth. After a youth returns from a state institution,

separation of adults and juveniles, removal of juveniles from adult jails, and the elimination of the disproportionate confinement of minority juveniles. (Available at <http://www.gsa.gov/>)

¹⁴Resources for dispositions, even punitive ones that might result from probation violations, have not changed and are still scarce, so the consequences of the information system may be to reallocate resources to cases that need them the most.

¹⁵As the system has been conceived currently, these agencies are wide ranging and include "... court and clerks staff, secure detention facility ..., probation, protective services staff ... , CASA, prosecutor, IV-D child support, public defenders and various youth serving programs developed by the court" (Brueseke, 1999, p. 10; available at <http://www.state.in.us/judiciary/admin/aims>).

¹⁶For CHINS (abuse/neglect) cases the local county offices of the Family and Social Services Administration provide a "single point of entry" through the Division of Families and Children (DFC).

almost no aftercare is routinely available, even though aftercare is the responsibility of the IDOC. IDOC assigns aftercare to existing (adult) parole officers. Given IDOC caseload sizes and the number of youth institutionalized, however, little aftercare has occurred.¹⁷ Two courts have extended court jurisdiction to youth returning from the IDOC placements, but these are exceptional situations. Thus, after commitment to IDOC, even the minimal services of parole are unavailable when the youth returns home.

Some counties use commitments to IDOC when they cannot afford to fund ongoing local services, since the state pays half. Commitments to the IDOC have also been affected by several experiences and perceptions of judges, including their direct experiences with IDOC as a bureaucracy, IDOC's limited ability to provide rehabilitative compared to custodial services, the absence of aftercare, and the persistence of problems at IDOC facilities and consequent law suits. The chronic shortage of bed space has made an effective risk assessment instrument important to guide decisions about length of stay¹⁸ (Lemmon 1998, p. 55). Courts have complained that IDOC released youth too quickly and that IDOC did not inform courts when youth are returning to the community. As a result, two laws were passed to allow judges to fix a determinate sentence to the IDOC and to require IDOC to notify courts 10 days before a juvenile's release.¹⁹

The third application of state resources was through the Indiana Criminal Justice Institute (CJI).²⁰ The State of Indiana has pursued federal National Institute of Justice funds by conforming to all requirements including changing legal codes to conform with the core requirements for the Juvenile Accountability Incentive Block Grant (JAIBG) funds.²¹ Regardless, counties still exercise considerable influence and control over their distribution. County courts influence the state plans and projects that use

¹⁷A professor at Indiana University developed an aftercare program for youth using students in a University Service Learning program, but the program received no state funding. IDOC apparently has allocated no funds for transition programs and has canceled a contract for an alternative school program.

¹⁸Criticism has existed that the risk assessment instrument (RAI) has not been used credibly. For example, a new boot camp was filled almost entirely with youth from one county, which would not be reasonable if the RAI were used correctly.

¹⁹IC 31-6-4-15.9, P.L. 269,§4 and IC 31-6-2-3, P.L. 268,§3.

²⁰CJI funds a variety of projects including training and monitoring of police, prosecutors, and defense attorneys on changes in legal codes. CJI's Juvenile Justice Division funds "projects/initiatives that prevent and/or reduce juvenile offending and promote positive youth development through community-wide collaboration." These include Title II Formula and Title IIE grants, the JAIBG program, Title V (Prevention), Safe Haven Education program, and Compliance Monitoring. CJI also supports the Indiana Sex & Violent Offender Registry, Governor's Council on Impaired & Dangerous Driving, Governor's Commission for a Drug-Free Indiana, Victim Services, Police Corps, Criminal Law Study Commission., Juvenile Justice, Crime & Drug Control, Research & Evaluation, and Indiana Coroner's Training Board.

²¹Under the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, the State of Indiana is awarded Title II Formula and Title IIE Challenge Grants. Public Law 105-277 (1998) appropriated approximately \$4.7 million to Indiana for the Juvenile Accountability Incentive Block Grant (JAIBG). JAIBG funding requires compliance with four core requirements, especially regarding sight and sound separation from adults in detention.

federal funds. Courts also exercise some control over IDOC decision practices. For example, one countywide program requires funds to be combined from ten other governmental units. CJI funding has been distributed to units of government related to police agencies.

State and county fiscal controls, however, have prevailed. Sometimes the same functions are assumed by another, related grant, but at other times, the functions are discontinued. This applies not only to funds for programs but also for oversight activities by the state court administrator (SCA). For example, probation oversight functions by the SCA were scaled down after the pilot funding was lost and the staff person was shifted to a funded activity.

State Trends in Juvenile Justice

According to the FBI's Uniform Crime Reports (1994-1997) arrests for juvenile crime declined from 1994 to 1997 by 1.7 percent. All types of crime decreased, except for the most serious index offenses and misdemeanor offenses. That is, on the one hand, serious (index) property crimes decreased 9.2 percent, and status offense rates decreased by 8.8 percent from 2,133 per 100,000 youth to 1,945 in 1997.²² On the other hand, the most serious index violent offenses (forcible rape, robbery and aggravated assaults) increased 15.5 percent. Misdemeanor offense rates also increased by 4.7 percent,²³ and this increase was largely the result of a very large increase (52.7%) in drug violations. Thus, the short term trends in arrests are not uniform across all offenses. The reliability of trends from arrest data is questionable, because the data are incomplete or highly variable. For example, comparing two large, urban counties in Indiana that have similar rates of poverty and minority populations, the rate of serious index crimes for one is four times the rate of the other. Other measures also support this perception of problems with definitions of violent crime. The violent crime rate for Indiana from 1994-1996 was far higher than in 1985, and it increased 126 percent. Only 14 states are reported to have higher violent crime rates than Indiana (TYL, 1998, p. 32).

The legislature gave discretion to the IDOC for commitment actions, including the decision to assign youth to programs independent of the judiciary, to keep youth for extended periods, and to release youth.²⁴ Courts might order a determinate sentence, but IDOC claims this is rarely done. By statute, IDOC must inform courts 10 days before release. The court may reassert jurisdiction over youth, but

²²This decline was led by the drop in arrests of runaways (-14.6%).

²³From 4,064 per 100,000 youth in 1994 to 4,257 in 1997.

²⁴If a youth is committed for a serious felony, s/he may be kept indefinitely, from 6 months to the child's 21st birthday.

otherwise aftercare supervision is the responsibility of IDOC. Commitments to the Indiana Department of Corrections (IDOC) increased steadily²⁵ over all four years with the exception of a peak in 1997 that fell in 1998. Overall, Indiana courts filed petitions on almost half the number of arrests.²⁶ and committed about 5 percent of the youth arrested.²⁷

COURT STRUCTURE AND ROLES IN SELECTED COUNTIES

Our examination of three sample counties illustrates the variability in the administration of juvenile justice across three counties. Our three counties comprise about 27 percent of the juvenile population and about 33 percent of all the juvenile arrests. These three counties, however, comprise over half (about 55%) of the arrests for the most serious of the index crimes, over half (about 51%) of the court filings, and about half of the commitments. Most of these differences are attributable to one county, MetroD which we examine in detail.

MetroD

Population growth in MetroD has been modest since 1990, similar to that of the state as a whole (8%). The county is predominantly white (70.5%); African Americans comprise nearly 24 percent, and the Hispanic population is growing very rapidly, but is still less than 4 percent of the overall population as of 2000.²⁸ Overall, youth of color comprise 31 percent of the juvenile population. Nearly 1 in 4 children live below the poverty level, a level higher than the rest of the state. The median family income was \$33,695. MetroD is one of the largest counties in the state, with a population of nearly one million, and it contains a major metropolitan area where the court is located.

The MetroD juvenile court was founded in 1903. In the first seven years of its existence, almost 6,000 cases were served by one judge and two probation officers. In those seven years, no cases were brought before a jury. The court relied instead on providing parents "...a plain and vigorous talk ...which resulted in reuniting the family..." and showing them "how good people live." This more simple image of intervention has been replaced by a very high volume of cases, a large and complex organizational structure with specialized functions, and a complex system of services. The juvenile court

²⁵Commitments increased by 8.0% in 1994, 3.7% in 1995, 18.7% in 1996 and then decreased by -7.2% in 1997.

²⁶Indiana filed petitions on 42.0% of the arrests in 1990, 48.1% in 1994, 51.8% in 1995, and 69.4% in 1996 (Kids Count).

²⁷In 1994, 4.3% of the arrests were committed, 4.4% in 1995, and 4.8% in 1996.

²⁸U.S. Census Bureau, Census 2000 Summary Files, Basic Facts.

in MetroD is now large and complex, housed in a large 10 year-old facility comprised of two sections – offices and courtrooms in a three-story building attached to the single-story detention center. The court has between 275 and 300 employees. Prosecutors, defense attorneys, and police also have offices in the building complex.

The high case volume is apparent visually as family groups move from the crowded parking lot, through a long line for the metal detector, and into the crowded waiting area outside the hearing rooms. Families sign in at the reception desk, and four TVs continually play a video loop that introduces them to the court and to their rights.²⁹ They are called and admitted through locked doors to an anteroom from which the bailiff guides them into the courtroom.

A relatively small group (one judge, four magistrates, seventeen workers at intake, nine workers in the court services unit, eight prosecuting attorneys, and four defense attorneys) processes approximately 14,000 cases annually.³⁰ Worker turnover occurs most for court workers and prosecutors. The large volume of petitions might account for some of the turnover because of high job stress, a distracting environment, lack of control over the environment, and routine processing decisions. Because forty percent of youth admit to the offense, the primary function of prosecutors is often little more than determining the charging offense.³¹ Prosecutors are difficult to attract and retain, partly because the juvenile court is not viewed as the usual career path for new attorneys. The burden of short tenure among prosecutors in this high volume office falls to the deputy prosecutor. Public defenders express frustration about the volume of cases and the quick pace of hearings and concern regarding the high rates of turnover and lack of experience of court staff. One respondent attributed the lack of discretion and independence to the court rules that allow probation officers no discretion.³² Public defenders also complained that staff inexperience and the court's control over decisions cause unnecessary delays.

²⁹Prior to their hearing, families sign forms acknowledging their rights and that they may seek help from public defenders. Their rights are reviewed in the hearing.

³⁰In 1996, the juvenile court in MetroD County recorded almost 50,000 hearings. Recently another magistrate was added to the judicial staff. The Division of State Court Administration concluded in a study of Indiana trial courts that MetroD County trial courts were the most understaffed of any county, needing almost 25 new judicial officers. Indiana Supreme Court, Division of State Court Administration, "Indiana Trial Courts Weighted Caseload Information."

³¹Of the cases that were subject to hearings during 1996, that is not closed or redocketed, 53.8% were disposed by admission. The importance of the charging offense was validated by written procedures by the chief prosecutor about reducing charges. The deputy prosecutor reviewed the dockets using the management information system and was very active in court hearings when they involved serious offenses.

³²Staff turnover, itself, may also lead to lack of independence.

Intake and Case Processing

Most referrals to the court are for arrests brought to detention-intake. The primary sources of referrals are police agencies (73.8%), parents and others (16.9%) and schools (9.2%).³³ MetroD police agreed to the court's request not to warn and release but instead to refer all arrests to the court. This decision was based, in part, on the court's reported concern that white youth were being released more frequently while youth of color were being referred to the court. Juveniles brought to detention-intake are given a drug screen, fingerprinted, and assigned a case record. Workers conduct a brief preliminary inquiry (PI), and most cases are then referred to the initial hearing.³⁴ An exception to this practice occurs during "curfew sweeps," which are processed at the community level rather than at detention. Youth are required to submit to a drug test and the court determines whether they have a prior record before they can be "warned and released." However, this practice itself creates a formal record, even when youth are "warned and released."

The most important decision at intake is whether to detain, because this often predicts more serious dispositions later. The criteria for this decision are simple and unambiguous. Youth are detained if they are 13-16 years old, accused of a violent offense, have prior offenses, are a threat to themselves or others, or are in danger of absconding. The most experienced workers handle intake, but the court does not rely on a structured decision making instrument. Detention confinement allows intake workers to err with caution, admit the youth, observe their behavior, and obtain more information. An initial hearing is to occur within two working days of detention and be conducted by a magistrate. Youth may then be detained further, sent home, or placed on home detention. Table 7.1 documents the number of youth brought to detention (pre-adjudication only) and also indicates the actual percentage detained. It is noteworthy that, over the five-year period, the numbers of youth brought to detention have declined substantially, but the number detained has not declined as much. This may be the result of the need to detain more serious offenders or of the tendency to fill detention "beds." It was reported that a small number of youth who are pre-adjudication are placed on electronic monitoring when there is an overflow at the detention facility.

³³Since MetroD public schools has its own police agency, referrals from school police (11.7%) are counted among police referrals.

³⁴PIs include a check for priors, an interview with parents/guardian, and contacts with the school if possible.

Table 7.1: Pre-Adjudication Detention in MetroD County

Year	# Brought to Detention	# Detained	% Detained
1996	17,506	8769	50
1997	16,668	8550	51
1998	13,702	8672	63
1999	12,555	8104	65
2000	11,486	7433	65

Source: Court MIS Data

Diversion is also governed by simple decision rules, and recommendations for diversion are reviewed by the supervisor of the Court Services Unit. Only a few cases (first time misdemeanor or status offenses) are diverted from intake without a hearing. According to court and prosecutor policy, a worker can dismiss a case only when no probable cause exists. Workers at the court indicate that little discretion exists for intake staff, and the manual contains no recommendations for the hearing. In MetroD County, juveniles charged with a status offense are diverted to the special Status Offender Unit. Diversion is handled more formally for juveniles coming through detention-intake than for paper referrals received from schools for truancy and destined to be handled by truancy courts within schools. Recommendations for diversion are reviewed by the supervisor of the Court Services Unit. Diversion can also occur at the initial hearing.

Two aspects of case processing in MetroD create a high case volume and inflate the use of diversion: police are forbidden to warn and release, and curfew sweeps and truancy cases, handled primarily within schools, are processed at a high rate.³⁵ Most of these cases are diverted at court if this is a first offense. Some "ad hoc" criteria, such as threats at school, also exist for detention decisions. At one time, a checklist was used to assist this determination. By law an initial hearing must occur within two working days of detention. Youth may be sent home or assigned to home detention with various limitations on their movement.

Table 7.2 shows the serious consequences of increased case volume in MetroD County. Table 7.2 compares the number of cases referred (delinquency and status filings) with the number of cases charged over three years. First, the number of referrals for delinquency and status offenses have

³⁵Pilot truancy courts are relatively new and funded by private foundations. They are held in two schools, and each school has a probation officer assigned. The school is encouraged to take action on truant youth more quickly in order to correct and help youth at earlier signs of truancy. The prosecuting attorney and court still receive a

increased each year. Second, for each year, the proportion of youth who were referred and then finally charged also increased. In 1994, 55.6 percent of the cases referred were accepted by the court. In 1995, 59.8 percent of the cases referred were charged, and, in 1996, 67.3 percent were charged. Furthermore, youth who were referred for delinquency were far more likely to be charged than youth referred for status offenses. In 1996, delinquency referrals were almost twice as likely to be charged as status referrals.³⁶ The number of youth committed to IDOC rose in part because of the increase in petitions, but this increase also signifies changes in court practice. The number of youth waived to the adult court through judicial waiver is also presented in Table 7.2. This refers only to those waived through judicial discretion, not statutory exclusion. The decrease in judicial waivers from 1994 to 1996 may reflect the expansion of statutory exclusion provisions in 1995, and, thus, more juveniles being waived through these provisions. This is consistent with comments made by respondents concerning increases in statutorily excluded cases, but these data are not collected in this court.

Table 7.2: Characteristics of Delinquency and Status Cases in MetroD County

Year	Delinquency Referrals	Delinquency Charges	Status Referrals	Status Charges	IDOC Commitments ³⁷	Waived
1994	8,953	4,976	3,802	1,438	584	401
1995	9,375	5,610	3,584	1,285	802	374
1996	9,423	6,346	3,925	1,395	903	296
1997	NA	NA	NA	NA	986	NA
1998	NA	NA	NA	NA	920	NA

Source: MetroD Management Information System

Hearings

Hearings in MetroD are more frequent than in the other two courts. In fact, MetroD uses hearings about six times more frequently than a comparable county in Indiana. The rate of hearings in MetroD is 3.18 per case whereas in MidMetroD1 it is 2.67. Many decision rules and structures serve to

complaint for truancy, but the school, parents, and child sign a contract that specifies their responsibilities. The complaint is withdrawn upon successful completion of the contract.

³⁶67.3% of the delinquency referrals were actually charged compared to 35.5% of the status referrals charged.

³⁷Discrepancies exist between court records and IDOC records. According to IDOC, 1994 commitments were 678, in 1995, 831 commitments, and in 1996, 923 commitments.

move cases to hearings for automatic judicial review. Even within complex hearings, decision alternatives are constrained by the charges, the prosecutor, and the youth's prior record. To some extent, judicial officers are specialized, with magistrates hearing the majority of delinquency cases and judges hearing abuse/neglect/custody cases. The most frequent judicial hearings are the initial hearing, disposition and various review hearings.³⁸ The prosecuting attorneys attend most initial and disposition hearings, and they participate in the complaint filing. Most of the charges are either dismissed (40.5%, in 1996) or admitted (40.9%). Very few charges are changed, found untrue, or tried.

The court is considering development of a juvenile drug court. Youth with first time drug arrests would be diverted from court at intake to drug courts that would operate in local communities with evening and weekend hours. This would increase the immediacy and frequency of review and surveillance by the court and would include some small group counseling. A goal of the program would be to concentrate on early intervention and avoid expensive treatment programs that have occurred in adult drug courts.

Dispositions

The preliminary disposition report is prepared by court service workers after the initial hearing. Three basic dispositions include: diversion, probation, or commitment. Their frequencies are shown in Table 7.3. Some youth receive more than one disposition within a year. Probation can be formal or informal and include various graduated sanctions including forms of detention (such as placement in the detention facility or home detention and intensive probation) and suspended commitment.

Detention as a "judgment disposition" is not only allowed and regulated in the Indiana code, as shown above, it is used increasingly since the advent of detention alternatives sponsored by JAIBG funds. As shown in Table 7.4, the use of jail and the county detention facility have decreased with the availability of home detention and electronic monitoring. These methods have increased by 71.9 and 21.7 percent, respectively, from 1994 to 1996. As noted earlier, only in the case of electronic monitoring were some of these youth pre-adjudication.

³⁸Review hearings include probation, suspended commitments, and placement reviews.

Table 7.3: Dispositions in MetroD County

Disposition	1994	1995	1996
Diversion	1,119	1,261	1,115
Probation	3,435	4,000	4,374
Programs	9,427	8,969	8,032
Detention	2,753	4,168	5,007
Suspended commitment	1,053	1,275	1,369
Commitment (IDOC)	584	802	903
Total	18,371	20,475	20,800

Source: MetroD Management Information System

Table 7.4: Forms of Detention Used for Dispositions (Judgments) in MetroD

Form of Detention	1994	1995	1996
Electronic monitor	245	632	777
Formal Home Detention	1,231	1,571	1,732
Informal Home Detention	1,226	1,959	2,491
County Jail	2	0	0
County Juvenile Center	49	6	7
Total Detention	2,753	4,168	5,007

Source: Management Information System

MetroD has only 22 probation officers to handle a large case volume, especially given the impact of pre-sentence investigation time requirements. Probation includes referral to many "programs," including community service work, educational programs (e.g. about drug abuse and other hazards), and tutoring programs. Considerable effort is expended in MetroD to develop and oversee services for 1.3 program referrals per filed case. About sixty percent of these program dispositions appear to be oriented toward treatment or behavior change in contrast to restitution or community service. In MetroD, the dispositional alternatives department monitors 15 programs which have recently been rebid to improve the fit between the needs that the court perceives and services offered. Two new programs have been developed: a capitated, case management and residential program for mentally disturbed youth and a new

alternative school program for expelled youth. Many of the youth served by the alternative school are abuse and neglect cases, but delinquent youth are also served. Several of its programs reflect the religious orientations of the community and involve moral and value based teaching, skills training, and tutorials in churches and other nonprofit agencies.

While MetroD places non-delinquent youth in community agencies, almost all delinquency commitments go to IDOC, ostensibly because of the judge's commitment to make IDOC accept their legal responsibility. The commitments for Indiana in 1996 were 47.8 per 1,000 juvenile arrests. In MetroD, the rate was 69.9 or 46.2 percent greater than the state average. As shown in Table 7.2, MetroD committed around 11 percent of the youth who had delinquency and status charges filed in court, a rate that was stable from year to year although the total number increased.

To determine definitively which characteristics most influence commitment decisions, a case-wise analysis is needed. This would allow us to determine the effect of specific case characteristics while controlling for other factors. If commitment decisions were reserved for the most serious offenses, then we might expect to find that serious felony complaints had triggered the increased commitments. Another explanation for commitments is that they are the result of defiance and challenges to the court's authority, which might arise from increased surveillance and attempts of the court to restrain and control youth. With currently available data, however, it is not possible to make these determinations.

Table 7.5 presents data about types of complaints, the use of detention, and IDOC commitments from 1994 to 1996. Commitment rates increased 37.3 percent from 1994 to 1995, and then 12.6 percent from 1995 to 1996. These changes do not correspond to gross changes (relative either to the size or direction) in any type of complaint. Changes in commitment rates, however, do correspond roughly to the changes in the use of detention. These data suggest that both detention and commitments are similar phenomena and not related simply to the types of offenses with which youth were charged.³⁹

³⁹ Caution is warranted here. It is impossible to determine the interaction among offenses or interactions among other characteristics. It is also impossible to determine if use of detention affected commitments or whether both detention and commitments were caused by similar or common factors.

**Table 7.5: Number and Percent Changes of Complaints, Detentions,
and IDOC Commitments in MetroD**

Type of Complaint	Number of complaints			% change from	
	1994	1995	1996	1994 to 1995	1995 to 1996
Felony	4,267	4,463	4,298	4.6%	-3.7%
Infraction	29	24	3	-17.2%	-87.5%
Misdemeanor	7,956	8,501	8,941	6.9%	5.2%
Status	4,791	4,756	4,793	-0.7%	0.8%
Violation	566	634	616	12.0%	-2.8%
Warrant-Detention	745	1,321	1,242	77.3%	-6.0%
Total	18,354	19,699	19,893	7.3%	1.0%
Detention	2,753	4,168	5,007	51.4%	20.1%
Commitment to IDOC	584	802	903	37.3%	12.6%

Source: Management Information System

Conclusions about Case Processing

This court does not use formal structured decision making techniques such as risk or needs assessment measures. The court maintains control and consistency primarily through the use of simple decision rules, through the review of decisions (especially by judges and magistrates), and through specialized functions.⁴⁰ Simple decision rules tend to move cases toward formal charges and hearings and the creation of records. For example, police are directed to refer all arrests to court. The court makes decisions at intake (for diversion, referral to court, and detention) using very limited information, such as the type of offense and the existence of prior offenses. Detailed information at intake is discounted by the hearing officers because it is gathered quickly and because intake has no opportunity to interview all the necessary people. When cases are sent to initial hearing, intake makes no recommendations from their brief preliminary inquiry.

Many decision making functions are specialized. The judge only hears abuse/neglect cases. The judge also reviews the decisions of the magistrates with the aid of the management information system.

⁴⁰As expected almost all case processing occurs centrally in the court facility except for minor offenses that are processed in truancy courts in schools, teen courts, and the curfew sweeps held in community facilities.

Intake and probation decision making are reviewed in periodic, group case reviews by supervisors on site. If the intake decision results in an initial hearing, it is reviewed by a judicial officer. The court services unit (9 workers) processes all cases through the court after intake and up to the final disposition (judgment). This unit's supervisor reviews all decisions to divert a youth at intake. Special units exist for status offenses (3 workers) and runaways (1 worker), and a specialized unit is assigned to monitor court contracts.

The management information system (MIS) greatly facilitates case processing and affects some substantive decisions. Specifically, the MIS allows various participants in court processing to monitor cases. Judges and court reporters examine and enter information about cases in real time, during hearings. Decision making by judges, magistrates, referees, and probation officers is reviewed through reports and through ad hoc examination of records. The deputy prosecutor tracks cases using the MIS and allocates his time to the most serious cases. The child's and family's records and probation reports are available during hearings, and one consequence is the increased likelihood that the terms of probation are changed after the probation reports are reviewed at probation review hearings. The automated information system also facilitates curfew sweeps, because the court can identify and locate the record of all juveniles with prior records. The information system also provides intake with direct information about youth with failed drug tests or who have prior records early in the case process.

Services Structure

Because there are few service alternatives, decisions are simpler, requiring less expert assistance. As indicated in the description of the state system, three primary sources of funding exist for the juvenile division in MetroD. The state pays judicial salaries, the county provides the routine expenses of the court, and the IDOC provides half the expense of commitments. In MetroD, IDOC also pays for some pilot projects through community corrections grants. Funding for intensive probation and home detention is obtained from JAIBG block grants to the state. Other revenues in MetroD include fees to the juvenile court, which provides around a million dollars annually. Grants include \$4 million from a foundation for the alternative school and \$624,000 for a multi-year program that arranges restorative justice conferences between youth and their victims. Some private money comes from a school-based organization and some schools provided in-kind contributions.

In MetroD, the court collaborates with other organizations, partly because the court itself has no funds to independently launch new programs. The chief prosecutor is directly involved in several projects, including curfew sweeps and diversion programs like the alternative school. The curfew

sweeps were based on a narrow collaboration between police, the prosecutor, and the court, until the federal district court disrupted the project. A more traditional collaboration between the juvenile court and several mental health and social service agencies was formed to develop innovative services for a category of severely disturbed youth using the following elements of managed care: assumption of risk, cost capitation, and utilization review. In this case, the terms of service are complex, and the collaboration about the details of managed care continues during the course of the contracts.

The juvenile court's relationship with other agencies and systems is confrontational at times. Recently, MetroD Court, dissatisfied with existing services that did not meet their criteria, asserted control by allowing private service agencies to bid for contracts and specifying services and formal performance measures. MetroD County also took a confrontational stance with the IDOC regarding placement and release of youth in placement. During a recent bid for reelection, a judge was opposed by some social service agencies that complained about the court's unwillingness to work with children's service providers, but they were unsuccessful in their efforts.

MidMetroD1

MidMetroD1 is a mixed industrial county with a population of approximately 500,000. The median household income is \$35,276 and 33 percent of the youth population are children of color. The juvenile arrest rate of 79.05 per 100,000 is just over half that of MetroD (at 147.5) and the juvenile violent crime rate is also lower than that of MetroD. The child poverty rate of 21 percent is the same as MetroD and the overall poverty rate is 13.3 percent.

The court is currently housed downtown in a 1930s style courthouse located in an area of similar architecture. The court building is crowded, unsuited for current operations, and needs repair, so a new courthouse is being built. It will be located with the detention center on the county office complex in the suburbs. The new court will be near shopping malls, civic buildings like churches, and a major highway. There has been a struggle over the location of MidMetroD1's new (combined) detention and court facility, reflecting a larger dispute between "old" and "new" MidMetroD1.

Unlike MetroD, this court had a large number of judicial officers relative to the number of cases being processed: about 5,000 cases per year are being processed by seven judicial officers, eight intake workers, three prosecutors and six defense attorneys (part-time).⁴¹ Also dissimilar to MetroD, our

⁴¹In addition to abuse/neglect (854), delinquency (2331), and status offenses (141), the MidMetroD1 Court processed paternity (1074), miscellaneous cases (505) and termination of parental rights (311) in 1998. The new cases processed per year may not be a completely accurate measure of the demand for hearings. A magistrate pointed to an "explosion" of hearings at the court, apparently resulting from numerous sources: probation violations,

observations of hearings in MidMetroD1 found that they are more slow-paced and seem to involve more participation.

Intake and Case Processing

In MidMetroD1, most cases are paper referrals, and police exercise discretion over who they refer. Very few cases (25-30%) enter through detention. The court reported that a total of 819 cases were held in detention in 1999, but that is not an unduplicated count of youth since some youth may be detained more than once; others are in detention after adjudication awaiting residential placement and still others may be assigned to weekend detention only. Staff did indicate that nearly half of cases were placed in detention for 15 to 30 days for probation violations and that might be weekend only. Thus, the unduplicated count may well be only a small proportion of the total cases.

Most referrals are processed by office intake staff, and the cases that appear in court do not have the information from drug screens that is available when cases enter through detention. The prosecutor represents the state in all delinquency cases, which occur two days a week at the court and three days a week at the detention center.

Apparently all delinquency charges are made through the police departments. MidMetroD1 has developed an intermediate "court ward" status for children with a delinquency complaint whose basis is an abuse/neglect problem. These referrals come from either police, schools, or the Department of Children and Youth. Twenty-eight police agencies make delinquency referrals, but, in a recent year, most (75.6%) came from nine departments. Three police agencies in the older, industrial cities account for almost half (45.9%) of these referrals. MidMetroD1 holds truancy courts once a month at a different school, and cases that reappear re referred to the magistrate. One of MidMetroD1's cities has a drug court that can handle juveniles, but the logistics of collaboration are difficult. Unlike MetroD, MidMetroD1 has not developed special apprehension systems, such as curfew sweeps.

Unlike MetroD, most (86.2%) of the cases filed (referred) were charged. Had MidMetroD1 used the same decision rules as MetroD – that all police arrests be referred and that most delinquency offenses be heard, it is still possible that the number referred in MidMetroD1 also would have proportionately fewer cases filed, because it is probable that police would have changed their practices. In 1998 and 1999, the total number of cases charged with delinquency averaged 2,600 and an average of 169 youth

CHINS (neglect/abuse) cases, and terminations of parental rights, which increased from about 70 last year to over 500 this year after the legislature enacted tougher laws to comply with the federal law. Also some courts retain cases longer, requiring additional hearing officers. Reviews of foster care placement have decreased from 18 to 12 to 6 months. Presumably these pressures have affected all Indiana courts comparably.

were charged with status offenses. The number of delinquency charges is decreasing, down ten percent from 1998 to 1999. The number of commitments to IDOC was small, averaging 65 from 1994 to 1997. In 1998 and 1999, the commitments almost doubled to an average of 130 per year, ostensibly because of budget problems that prevented the court from sending juveniles to private facilities as they had been doing prior to 1998.

One court worker summed up the court's philosophy: "... a strong liberal, rehabilitative ideal that is opposed to waivers, mandatory sentencing, zero-tolerance ... in favor of rehabilitation where appropriate." The rate of waivers (compared to delinquency charges) confirms this assessment, with less than one percent of all cases charged being judicially waived, compared to a much larger proportion in MetroD.

Hearings

The most frequent hearings are initial hearings, omnibus hearings and detention hearings. Prosecuting attorneys attend these hearings but generally agree with the judge's handling. About a third of the cases are dismissed (36.0%), slightly more are "granted" (41.3%) either by plea or admission,⁴² very few are granted by trial (2.3%), and very few charges are reduced (1.3%) or withdrawn (3.0%). In hearings, the relationship between the judge or magistrates and those involved in processing cases is more collaborative than adversarial. While the prosecutor is present for most cases, seldom does the prosecutor present the case, complaint, or evidence. Instead, the magistrate or judge conducts the entire hearing.

Dispositions

The total number of dispositions for MidMetroD1 (8,006) is far lower than the total for MetroD, although the percentage of cases formally processed varies far less.⁴³ In MetroD, the court uses probation and detention more than MidMetroD1. MidMetroD1 has twice the ratio of probation officers when compared with MetroD, given the number of cases on probation (1:238). The use of programs, commitments, and suspended commitments is essentially the same in both courts. A major difference in MidMetroD1 is the frequency of private placements rather than IDOC. Other programs include

⁴²These results reflected actions on charges not cases, but there were 3,347 charge dispositions for 2,411 cases, so the relationship to cases was fairly close.

⁴³The rate of dispositions to cases was the same, about 3.2, for each court.

substance abuse testing and prevention, restorative justice, community service, counseling, shoplifting prevention, gardening, family reunification, intensive probation and many others. As in the case of detention, the total count of dispositions refers to the fact that a specific juvenile could receive simultaneously multiple dispositions following a single adjudication.

**Table 7.6: MidMetroD1
County Dispositions 1999**

Disposition	Frequency
Traditional probation	1,058
Programs	3,396
Detention Alternatives	637
Suspended commitment	539
IDOC	142
Private agency placements	331
Home/relative	166
Ward of Court	918
Total	8,006

In terms of forms of detention used for dispositions, MidMetroD1 is similar to MetroD, because, as presented in Table 7.7, detention as a disposition includes in-house arrest and electronic monitoring, as well as out-of-home confinement.

**Table 7.7: Forms of Detention Used for Dispositions (Judgments)
in MidMetroD1 County (1999)**

Detention	Frequency
Electronic monitor	50
In-house arrest	342
In-house detention Level 2	161
MidMetroD1 County Jail	4
Weekend commitment to county juvenile center	80
Total	637

MidMetroD1 uses detention and hearings far less frequently than MetroD to oversee cases. The rate of review hearings to cases filed in MetroD is 2.48, while in MidMetroD1 it is .323, a difference of almost 8 times. Nonetheless, MidMetroD1 recently enacted personnel rules to increase the entry of probation officers' reports in the management information system, which explains the increase in changes to the terms of probation.

Conclusions about Case Processing

In terms of the stated court philosophy, MidMetroD1 staff appears to hold the rehabilitative ideal as primary over accountability. In terms of processing, this appears to be supported by the infrequent use of waiver to the adult court and the use of the intermediate status of "court ward." In terms of the restrictive processing decisions like detention and placements, MidMetroD1 is not reticent to exert control over youth, but it does so less frequently than MetroD. This conclusion is supported by two observations. First, the detention facility in MidMetroD1 seems less punitive and more "open" than other high-security facilities. Second, MidMetroD1 uses IDOC much less frequently for placements and prefers more open and treatment-oriented agencies.

The scale of decision making in MidMetroD1 and the lack of staff turnover present very different parameters for the oversight of decisions. The relations between the judge and those involved in processing cases is more of a collaborative than an adversarial process. While the prosecutor is present for most cases, the prosecutor does not present the case, complaint or evidence; instead the judge or magistrate conducts the hearings entirely. In MidMetroD1, the referees have all their orders approved by the senior judge, which is not the case for magistrates who must have only the commitment decisions approved. Referees specialize in the types of cases they handle, while the magistrates and judge divide the cases by rotation. The same management information system is also used in MidMetroD1, but, compared to MetroD, the information system appears to be used more for case processing decisions than for the oversight of decision making by magistrates and referees. Recently some personnel procedures have been enacted for disciplinary action against probation staff who do not enter contacts with youth. Observations of court hearings show that magistrates use the information system in real time during hearings.

In general, MidMetroD1 frequently takes greater care than mandated by the legal guidelines for processing. For example, for waivers, probable cause was reestablished at the waiver hearing; they do

not accept the probable cause determination at detention. Guidelines for permanency planning are also exceeded by the court.⁴⁴

Above all, the most striking aspect of case processing in MidMetroD1 County is the low volume of cases, the close relations among participants in case processing, and the use of informal rather than formal avenues to obtain services and oversee cases. As a result, staff report being more satisfied with their work than in other courts with which they were familiar.

Services Structure

While MidMetroD1 does have relatively more judicial officers than MetroD, MidMetroD1 also handles a wider variety of cases such as paternity.⁴⁵ The study done by the division state court administration found that MidMetroD1 needs over eight additional judges and is the fourth most understaffed court among Indiana counties. It is not clear how this conclusion was drawn because of its low case volume and relatively low arrest rate when compared to similar counties.

Considerable resources are dedicated to obtaining funding, partly because the court prefers to place their youth in private agencies rather than commit them to IDOC. Fundraising was also critical to the replacement of the detention and court facilities. The court also employs a deputy for programs who supervises a grant writer, an administrative assistant, and a placement supervisor, who has four probation officers to oversee placements and special programs. MidMetroD1 County also obtains access to services through the intermediary category of "court ward" from the Department of Family and Children.

One result of seeking external funding, however, is its unpredictability. For example, funding lapsed for a program begun in September, 1997, but the Criminal Justice Institute replaced it using JAIBG funding. Not only was it uncertain, this form of funding required considerable effort to build community support without assurance of its continuation.⁴⁶

⁴⁴When the law specifies review at 18 months, MidMetroD1 does 12 month reviews, and, similarly, when the law requires 12 month reviews, MidMetroD1 does 6 month reviews.

⁴⁵Under Indiana law the county court administration determines the divisions and the distribution of the caseload among divisions for the Superior Court.

⁴⁶Police chiefs and supervisors from several cities in MidMetroD1 all supported the expansion of the MidMetroD1 County Juvenile Court Probation Department's curfew checks of youthful offenders.

MidMetroD2 County

MidMetroD2 County is also one of the largest counties in Indiana. Like MidMetroD1 County, manufacturing played an important early role in MidMetroD2's wealth. Unlike MidMetroD1, economic transitions have been kinder to MidMetroD2 County. MidMetroD2 is the county in our sample most like Indiana as a whole. County population increased by ten percent to about 330,000 from 1990 to 2000. MidMetroD2's one large city is the political, geographical, population, and cultural center for the county. Unlike other older cities, the county seat size increased even more than the county as a whole, 19 percent from 1990 to 2000.

MidMetroD2 County's percentage of the population that is African-American is slightly larger than the state's and stable, about 10 percent in 1990 and 11 percent in 2000, compared to the state (8.4%). Minority populations also increased slightly; all persons of color in MidMetroD2 were only 12 percent of the population in 1990, and in the 2000 Census they were 17 percent. The Hispanic population is small (4% in 2000), compared to 3.5 percent for Indiana as a whole, but growing, as the Hispanic population in MidMetroD2 grew by 138 percent from 1990 to 2000.

The economic and social problems in MidMetroD2 are not as serious as in MetroD and MidMetroD1. The median household income is \$38,669, substantially higher than the other two counties that we sampled. Slightly fewer youth in MidMetroD2 County (about 13%) are in poverty, compared to the state (14.7%). Over a quarter of the population (27.7%) in MidMetroD2 County is under 18 years. About the same proportion of MidMetroD2 County families are headed by a single parent compared to Indiana overall (10.5%). Compared to MetroD and MidMetroD1, many fewer of the children in MidMetroD2 are minority youth (22% compared to 31.6% and 33.2%, respectively). Almost all (about 90%) of the minority population in MidMetroD2 County lives in the county seat.

Many of the differences between MidMetroD2 County and both MetroD and MidMetroD1 are reflected in their courthouses. In MidMetroD2, the juvenile court is located in a magnificent courthouse that rivals some state capitals in resplendence and is being renovated with private funding. It includes a rotunda with murals and leaded glass skylight, four very large, convergent marble staircases, and extensive faux marble panels and columns. The four major court rooms also have screen murals depicting classical scenes around high vaulted ceilings. The courthouse is the center of a small downtown that shows simultaneous signs of decay and renovation.

While the courthouse building is beautiful, it is not practical, and the court's detention center is seriously overcrowded and inadequate. Arrangements have been finalized to build a new facility that combines the court and detention center. MidMetroD2 County's dispute over location ostensibly

concerned the destruction of the current detention facility as an interesting architectural structure, but some also did not want the facility in their neighborhoods. The community was able to decide on the location for the juvenile facility with only a modicum of acrimony and without a lawsuit. This is not the only sign of community collaboration; others are downtown redevelopment projects and the relations among the juvenile court, social service agencies, and schools to develop programs for youth.

Two judges, three magistrates, one referee, ten intake workers and thirteen probation officers process about 5,500 new delinquency and status cases a year. The rate of processing for the total youth population is 122 per 1,000 youth, whereas the rate in MidMetroD1 is 68. The county youth arrest rate is 56.49 as compared with MidMetroD1 at 79.05 for 1998. One reason for the higher case processing rate is the number of judicial officers relative to the number of cases. Additionally, MidMetroD2 county assigns other functions of the family relations division to the court including paternity, child support, divorce and temporary restraining orders. Prosecuting attorneys are assigned as needed, and five part-time public defenders provide counsel to youth and their families. The special units in the court, testing and evaluation and educational programs, with one staff each, reflect the court's orientation to education and empirical validation (testing) of outcomes. As we discuss subsequently, the relationships between education and child welfare agencies are strong in this court.

Intake and Case Processing

In MidMetroD2 County most cases are paper referrals and it is possible for police to exercise discretion and divert youth from court. The referrals to the court are processed by office-intake staff, and the cases that appear in court do not have information from drug screens that are a regular part of cases that entered through detention. Several diversion programs also exist for youth who fit the screening criteria. In the past, the court staff diverted more, but recently the judicial team wanted to see cases through the preliminary inquiry (PI). "Adjustments" at intake are done routinely for status offenses and minor misdemeanors without a hearing. For example, a minor property offense like first-time shoplifting might be given administrative probation, consent decree probation, or be sent to teen court to determine the disposition.

Several programs run by community agencies address these offenses, and agencies also refer youth to these programs without going through court intake.⁴⁷ The court checks with these programs to determine whether a youth has been previously referred. The decision rules for referral to PIs are clear,

⁴⁷These programs include a truancy intervention program that involves daily monitoring of school attendance, a status offender court alternative program, and a program to deal with youth who have trespassed.

simple, and depend on the offense and prior records. After the PI, the decision to authorize a petition is made by a judicial officer. The prosecuting attorney, with offices in a separate building and not linked by an electronic information system, becomes involved only in denials only. Public defenders (five part-time) also appear only as needed for denials or if parents have interests that conflict with those of the youth. In MidMetroD2 County, the prosecutor indicated that it still is difficult to waive a youth under 16 years to the adult court, even for serious charges.

As shown in Table 7.8, in 1997, about the time new judges were elected, many cases that had been classified as “miscellaneous” were changed to status offenders. Cases that enter through detention have another diversion alternative, the Detention Alternative Program (DAP). POs in the DAP team interview parents for the preliminary inquiry report. In order to remove youth from detention quickly, the DAP team has extended involvement with the youth, similar to home detention or house arrest until case is settled. MidMetroD2 also has other alternatives to detention such as electronic monitors and home detention, if an adult is available to supervise.

Table 7.8: Characteristics of Juvenile Delinquency and Status Cases in MidMetroD2 County

Year	Delinquency Charges	Status Charges	IDOC Commitments
1993	4,003	58	NA
1994	4,504	74	132
1995	4,974	66	131
1996	4,724	65	132
1997	3,169	952	105
1998	2,987	1,053	120
1999	2,990	1,108	NA

Two elements of diversion seem to create important differences between MidMetroD2 and MetroD Counties. First is the non-formal focus of diversion. In MidMetroD2 County, no formal record is kept at court of diverted youth, although the court can determine from other agencies whether the youth has previously been served. It is unclear the types of deviance of these youth because a very large and increasing number of youth were charged with status offenses for 1997-1999. One explanation for the “diverted” group is that youth are referred directly to these programs by merchants, police, or parents without having to go through the court. Secondly, youth in MidMetroD2 County have access to several treatment programs on an informal basis. In MetroD on the other hand, most youths’ indiscretions are

documented and community service or restitution might be required, but there are few professional treatment services.

Dispositions

In MidMetroD2 County, three educational programs for youth supplement probation: a collaborative alternative school, a program for youth on probation who are behind several grades, and study times for youth on probation who are behind in school. The commitment rates for the state of Indiana and MidMetroD2 County are essentially the same, but we do not have data on MidMetroD2's commitments to other placement agencies. The commitment rate for MetroD is about 50 percent higher than MidMetroD2's. Furthermore, MidMetroD2 County does extend court jurisdiction and provide supervision and services to youth who return from placements. The community has also formed a placement review board to examine the effectiveness of out-of-home placements.

This court does not use formal structured decision making schemes such as risk or needs assessment measures. The court has moved recently in three directions: to build a new detention and court facility, to hire experts to assess youth for treatment needs, and to expand the alternative school program. It appears that the community has developed close relations with the court in a number of other areas, including such things as diversion of youth to community services and oversight of placements. The conditions discussed earlier with regard to MetroD that support structured decision making do not seem to be present in MidMetroD2 County.

Services Structure

Community involvement by the MidMetroD2 County Court is extensive and stable and is organized by representatives of all the community, including social service and law enforcement professionals, prosecutors, defense attorneys and existing committees or collaboratives.⁴⁸ Relations between the court and community are stable and continuous, as evidenced by the prior senior judges who now serve part-time in court. Furthermore, the part-time chief public defender is the retired chief prosecutor's old boss.⁴⁹ The involvement in the community includes more than participation by the judge, because other court administrators represent the court in the community. The detention alternative

⁴⁸These committees address a wide range of issues and include a placement review board, a drug and alcohol consortium, a school safety committee, and a committee against domestic violence, sexual harassment, and rape.

⁴⁹He was instrumental in keeping timelines and getting denials efficiently handled, either through dismissal, alteration of charges or changes of plea.

program is funded by IDOC as community corrections, and a Criminal Justice Institute grant pays for three of its positions. Its goal was a 33 percent diversion rate resulting from more speedy intervention, but that seems to be possible only if the youth is not detained prior to the initial hearing.

CONCLUSION

Structured decision making that involves formal assessments of risk and needs is not used systematically to support case processing in any of the three sample courts in Indiana. SDM is used by the IDOC and is recommended for probation caseload management. The IDOC has implemented risk assessment to assign committed youth to programs and to determine recommendations for the length of their incarceration. The implementation of SDM for probation case management has not been implemented across all courts, and the implementation is not tracked by the state court administrator who developed it. This system is used in only one of the courts in our sample.

Why has SDM been implemented in some courts and states but not in Indiana? If we examine some of the predominant aspects of Indiana's juvenile justice system, we may find explanations for the reluctant implementation of SDM. We can test the validity of these explanations by examining the relationships between these characteristics and the incidence of SDM in other states and courts.

The first important characteristic of the Indiana system is the amount of autonomy of the county relative to the state. In nearly all situations, state authority supercedes that of the county, as with the codes. Recent changes in the juvenile code by the state have attempted to remove some discretion of the juvenile court, especially regarding the waiver and transfer of jurisdiction for some offenses to adult courts and an expanded role for prosecuting attorneys. This has been very effective when the prosecuting attorney has eagerly taken the control that has been given by the code, as with MetroD County. In other counties, the relationships within the court are more collaborative and the codes have not changed the day-to-day operations of the court.⁵⁰ SDM may gain some utility if the prosecutor cannot effectively staff the juvenile court with attorneys, as seems to be the case in MetroD.

The state code has also specified some decision criteria for detention and other processing decisions. The existence of in-home detention and electronic monitoring, however, have mitigated the critical nature of the detention decision. They have expanded the capacity for detention, allowing detention slots to be opened more quickly. This may have reduced the need for the control that SDM may provide. In fact, the MetroD County Court abandoned its checklist, a modified SDM risk assessment instrument, after implementing alternative detention programs.

⁵⁰A significant exception where the power of the state code has been immediate is the cases where direct filing in adult court has occurred.

The code, however, has not addressed delinquents' needs for services. In fact, much of the language that supports treatment goals, such as references to the "best interests" of the child and community, was removed in recent revisions to the code. Needs assessment received some consideration from the state court administrator when the risk assessment instrument used for probation caseload management was being developed. The judicial panel rejected it, however, because they believed it might create expectations that the justice systems could not meet. Thus, the state has exercised its leadership relative to courts in only a few areas, specifically with regard to the "risk" posed by youth, not to their needs for help or treatment.

The consequences of creating detailed decision criteria in the code have been mentioned previously. This kind of intervention by the state severely limits the need for some types of risk assessment instruments. This does not explain the absence of needs assessment instruments though. As the judges in the state court administrator panel implied by their reluctance to develop them, needs assessments can produce positive expectations and can be helpful for obtaining funding from county governments.

A second important characteristic of the Indiana system has been funding. Funding creates services that increase the complexity of decision processes, and in Indiana most of these services are county funded. County funds can be lost through sanctions that result from violations of lawsuits. State funding can overcome the vaulted independence of county over state government. We have found instances in Indiana when courts and counties have been quite responsive to some incentives from funding. In fact, the implementation of the IDOC risk assessment system was supported by the need to avoid overcrowding, the subject of the consent decrees that resolved several class action lawsuits that otherwise would have resulted in fines. It is feasible that the need to respond to federal guidelines for detention has diverted funding and attention from service alternatives. In two of the three courts in our sample, judges spent extensive amounts of time and political capital in developing expensive court and detention projects with county commissioners. In both cases, the process took over two years and in one county the judge sued the county commission.

A third important characteristic of Indiana's juvenile justice system is way that priorities have been set for reform through confrontation. Indiana seems to have been driven recently by two different priority setting systems. First, priorities appear to have been set by the use and manipulation of violent juvenile crime incidents by politicians and the media. This has created an atmosphere that is antithetical to treatment goals. Second, priorities seem to have been set by successful lawsuits that have uncovered crises in the ways youth are handled. The effect of these important reforms seems to have been to create large, capital-intensive projects and a system of incarceration that is probably more secure than needed.

In both cases, the juvenile justice system is cast as reactive and responsive and cannot set priorities proactively.

All three judges in our sample courts in Indiana responded effectively to these priority setting mechanisms; they developed programs and built new facilities with remarkable efficiency. Confrontational leadership from judges has been essential in MetroD and MidMetroD1 courts, whereas this is less the case for MidMetroD2. Unfortunately, the price of this effectiveness may be a top-down authority approach that is less effective when collaborative service networks are needed. On the other hand, MidMetroD1 was able to maintain a high level of inter-staff collaboration. In MidMetroD2, continuity in leadership and strong community support have encouraged services that are supportive of the court. This court is probably the most receptive to the use of risk and needs assessment instruments.

The explanation for the absence of SDM in Indiana juvenile courts suggests three contextual factors: the autonomy of county courts relative to state attempts at control, lack of funding for the implementation of SDM and for decision alternatives, and the setting of priorities through confrontation. The statewide emphasis on the control of county courts through the detailed decision making prescriptions in the juvenile code reduces SDM to a minor role in decision making. Without funding for the studies needed for SDM, for the training and implementation costs, and for the creation of credible decision alternatives, SDM through risk and need assessments cannot play an important role. Effective leadership to implement SDM will need proactive measures and broader vision than what has currently emerged through responses to violent juvenile crime and remediation of the conditions cited in lawsuits.

CHAPTER 8

STRUCTURED DECISION MAKING IN JUVENILE JUSTICE

Structured decision making (SDM) has become an important concern of both advocates and critics of the juvenile justice system. There is pressure for greater rationalization of decision making in order to assure fairness equity and accountability in court processing and dispositions. Proponents believe that this will lead to the most appropriate treatment and services to juveniles, as well as sanction penalties for criminal behavior. A large number of factors have led to the increased development and use of formal SDM procedures. These factors include:

1. High volume caseloads and time limits on processing decisions.
2. Increased alternative options for:
 - Detention of pre-adjudicated youth (home, tether, shelter, as well as detention facilities);
 - Probation management (general supervision, intensive and minimal);
 - Community-based placement options with very different security requirements;
 - Residential treatment facilities and training schools; and
 - Periodic reassessment and assessment for reintegration at termination.
3. Pressure to achieve individual accountability of juveniles for the crimes that they commit.
4. Need to delegate and specialize decision making to specially trained staff.
5. Complex decisions for "serious" cases of mental illness, drug abuse, and developmental disability. These cases typically require extensive clinical assessments which are too expensive and unnecessary to be used for all juveniles who are processed and adjudicated.

SDM has been defined in a variety of ways, but generally it is referred to as a formal and standardized procedure to guide decision makers by defining the criteria they must use in their deliberations and eventual decisions. It functions as an organizational tool that decision makers are expected to follow while suspending, to some extent, their independent discretion. SDM technologies, such as "risk assessment," theoretically provide a means for courts to standardize case processing and management strategies, thereby promoting system accountability and potentially eliminating inappropriate decisions, discrimination and waste. This chapter explores various aspects of SDM. It begins with a discussion of the historical background of this procedure as it had been used in both correctional systems and juvenile courts. We review the research literature about the development, use and validation of SDM instruments. Various approaches and procedures to SDM have been employed

nationally and particularly in the four-state sample that we studied. We consider the benefits of a comparative research design in the study of structured decision making and examine the actual SDM models used in the four states this research considers (Michigan, Illinois, Ohio, and Indiana). We present responses of staff from our sample of 12 courts regarding the use of SDM and its relative value in their work. Lastly, we discuss the need for the development of separate instruments for females and males that consider gender as a important variable.

HISTORICAL ORIGINS OF STRUCTURED DECISION MAKING IN JUVENILE JUSTICE

Concern about public safety is implied by the very concept of crime and the development and enforcement of criminal statutes. It is assumed that certain social actors may at times constitute a threat to society and must be controlled accordingly. In juvenile justice there has long been a very conscious effort to identify and reform children who possessed certain "risk" factors and were already, or considered likely to become, "delinquents" (Glueck and Glueck, 1956). During the child-saving movement in the early 20th century there was a concerted effort to intervene and thereby "habilitate" the children of the "dangerous classes." Public opinion in 1880 described these youth as "mainly American-born, but the children of Irish and German immigrants...as ignorant as London flashmen [and] far more brutal than the peasantry from which they descend." These "dangerous" youth were apparently "ready for any offense or crime, however degraded or bloody" and, if not promptly subjected to the civilizing influences of correctional institutions, it was feared that society would face "an explosion from this class which might leave [the cities] in ashes in blood."¹ While these tragedies did not ultimately come to pass, the speculation demonstrates how on the eve of the modern juvenile justice system's inauguration there were very clear demarcations and fears of dangerous youthful offenders.

The development of procedures to formally and objectively classify youthful offenders occurred in correctional or custodial institutions for youth before the instigation of the juvenile court. Steven Schlossman (1995) has suggested that one important distinction of twentieth-century reform schools from their antecedents was that "they used rudimentary behavioral science methods to diagnose and classify inmates," intending to target the perceived treatment needs of their charges with specialized interventions (p. 376). Schlossman (1995) explains, "Most reform schools were virtually impervious to change [and] even when serious efforts to transform correctional philosophy, design, and practice were contemplated and planned, the implementation was usually so faulty as to abort the experiment" (p. 374).

¹ See Charles Loring Brace's descriptions as quoted by Anthony Platt (1991, pp. 8-9). See also Stephen O'Connor (1999), *The Orphan Train: The Story of Charles Loring Brace and the Children He Saved and Failed*.

This pattern is illustrated by the fate of early twentieth century reforms in Ohio. The Ohio Boy's Industrial School (BIS) introduced three major innovations in the early 1900s to try to bring its program in line with treatment methods gaining some currency among penologists and educators. William Healy, Edward Thorndike, Lewis Terman and other authors at the time emphasized the value of inmate classification, vocational education, and upgraded academic instruction. Founded in 1913, the Ohio Bureau of Juvenile Research began to screen inmates with psychological and psychiatric examinations. Yet, superintendents had little use for the information as available treatment resources were hardly advanced or diverse enough to provide the specialized interventions recommended by the elaborate assessments. Ultimately, this structured decision making initiative failed, and "the assignment of boys to institutional programs or living quarters proceeded according to traditional criteria such as available bed space, age, race, religion, and offense" (Schlossman, 1995, p. 336).

With the advent and spread of the juvenile court in the early 1900s and its focus on rehabilitation, it was recognized that there needed to be assessment of the juveniles' risks and needs if rehabilitation was to succeed. Child study clinics were developed in juvenile courts for clinical assessment of difficult cases and youth for whom further information was needed prior to judicial decision. One of the most influential was the Judge Baker Guidance Clinic in Boston. These clinics gradually spread across the country and continued to be influential in decision making through the 1980s. Clinic assessments were utilized extensively by many judges, far more than assessment instruments were utilized by directors of correctional facilities. In addition, judges often ordered specific types of services for juveniles with special needs.

By the 1940s, new efforts to develop SDM procedures in juvenile justice were underway. Prominent figures in corrections and law began to endorse the development of "Youth Authority" or "Youth Correction Authority" (YCA) agencies to coordinate the treatment of delinquent youth. The advocates of this reform believed that commitment decisions were being made by "a scattered unregulated judiciary" to the disadvantage of delinquents and their communities (Schlossman, 1995, p. 384). These new agencies centralized commitment procedures to facilitate more objective decision making based primarily on elaborate psychiatric, psychological, medical, and social casework assessments conducted by experts. Not unlike efforts already mentioned, however, these elaborate classification and placement schemes were somewhat out-of-touch with the realities of existing delinquency service resources. These schemes were not useful in small states where there were few alternatives other than probation or a single state institution. The Youth Correction Authority idea assumed the existence of both a scientific ability to diagnose problem behaviors in youth and the ready availability of specialized programs to offer treatment.

California began the Youth Authority in 1941 and four other states (Minnesota, Wisconsin, Massachusetts and Texas) followed soon after, creating similar Youth Authorities over the course of the next decade. These states then led the nation in the development of more professional treatment services, especially in residential facilities (Konopka, 1960). The California Youth Authority (CYA) was especially active in the development of structured decision making. The CYA created "diagnostic centers" where all delinquent youth would be sent for assessments prior to placement in a particular institution. By the 1950s, "the confidence of many corrections leaders in [California] grew as increasingly sophisticated diagnostic technologies were developed under CYA auspices" (Schlossman, 1995, p. 384). These developments included the invention of an "Interpersonal Maturity Level," or "I-Level," screening device to define inmate personality types for purposes of classification and assignment to specific treatment programs (Jesness, 1971; Warren, 1970). Meanwhile, states also began to develop more specialized programs that provided appropriate levels of security and treatment alternatives for various categories of youthful offenders. During the 1960s and 1970s states and communities, as well as juvenile courts, fostered the development of a variety of community-based programs. One of the positive outcomes of the Youth Authority movement was the change in upper age limits by including youth as old as 23 years under juvenile authorities. As a result, these young people had greater access to educational and other rehabilitation programs than they would have had in adult prisons.

It was not until after 1950 that juvenile justice institutions began using formal and standardized instruments that codified the "risks" and "needs" an individual offender presented and recommended appropriate sanctions and treatments. In the 1960s, these "structured decision making" procedures began to emerge in courts (especially the adult system) as attempts to standardize if not displace the use of discretion among decision makers in that context (Jesness, 1973; Quay, 1971; Speiker and Pierson, 1989). However, this change occurred at the time of the Supreme Court decisions of *In re Gault*; *Kent v. United States*; *Breed v. Jones*; and *In re Winship*, so attention was directed far more to issues of human rights, due process, and civil liberties.² In 1966-67 the President's Commission on Crime and Criminal Justice focused the attention of the nation on deinstitutionalization, diversion, and decriminalization of status and other minor offenses, along with resources for community-based programs. Relatively little attention was directed systematically to structured decision making at this time. In a survey of 300 juvenile courts in the U.S. in the 1970s, neither structured decision making nor risk assessment was mentioned as being of serious concern, nor was it found to be widely implemented (Sarri et al., 1976).

In the early 1970s, the most radical change occurred in Massachusetts with the closure of the state residential institutions for juveniles and the transfer of delinquents to a variety of community-based

programs (Miller, 1991; Miller, Ohlin, and Coates, 1978). Criteria for placement related more directly to where the juvenile lived and what might be accomplished through progressive treatment and education. The changes in the juvenile justice system in Massachusetts actually strengthened the power of the juvenile courts and got them more involved in the state corrections process, as they now had more options for placement and thus the court gained decision-making authority (Miller, Ohlin, and Coates, 1978, p. 226). A parallel reform was underway in Wisconsin, although over a longer period from the 1940s through the 1950s, that focused on treatment and social work *within* the institutional framework because of perceptions of the offender as less amenable to rehabilitation in the community and in need of institutional control (Miller, 1977; Miller, Ohlin, and Coates, 1978).

In the 1980s, SDM approaches to assessment reappear as a significant concern, and during the 1990s "risk assessment" in particular received much attention. This change corresponded with the development of restrictive and punitive legislative provisions in many states.³ In some cases, these provisions limited structured decision making based on risk and needs assessment because the law specified, often in considerable detail, the exact penalty that an adjudicated offender was to have. Laws also loosened the transfer of juveniles to adult court for processing as adults, as is described in Chapter 3.

BALANCING JUSTICE: ACCOUNTABILITY AND STRUCTURED DECISION MAKING

Federal legislation targeting delinquency (H.R. 3) in 1999 initiated major changes in policy concerning the juvenile justice system. Although H.R. 3 was not enacted, the Appropriations Bill (Public Law 105-109) provides \$250 million for the Juvenile Accountability Incentive Block Grant (JAIBG) program described in Title III of H.R. 3. This legislation identifies increases in serious youth violence as a substantial problem for current and future public safety. One means to confront youth violence identified in the legislation is through the waiver of youth to adult courts for violent and serious crimes that would be felonies if committed by adults. Another means to confront youth violence is through the development of systems within states that administer sanctions in proportion to the delinquency record of the youth, nature and severity of the crime, and other factors related to the youth's situation.

This act has four criteria for states who qualify for funding:

1. Juveniles 15 and over who are alleged to have committed a "serious violent crime" are subject to criminal prosecution by operation of law or prosecutor direct file;

² *In re Gault*, 387 U.S. 1 (1967); *Kent v. United States*, 383 U.S. 541 (1966); *Breed v. Jones*, 421 U.S. 519 (1975); *In re Winship*, 397 U.S. 358 (1970).

³ See Chapter 3 on the code changes.

2. Impose sanctions on juvenile offenders for every delinquent act, including probation violations and escalate sanctions for each subsequent offense;
3. Establish a system of delinquency records that subjects juvenile felony offenders with a prior adjudication to having their records treated in a manner equivalent to adult records, including submission of such records to the FBI; and
4. Ensure that state law does not prohibit juvenile court judges from issuing court orders requiring parental supervision of juvenile offenders and from imposing sanctions for violations of such orders.

The funding is awarded to states who "develop and administer accountability-based sanctions for juvenile offenders ... to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism" (H.R. 3, sec. 1801 (b)(1) &(7)). Given the significance of this public policy to the interests of the general population and youthful offenders in the juvenile and adult courts, it is important to examine the various facets of SDM for system and community, as well as individual, accountability.

RESEARCH ON STRUCTURED DECISION MAKING

There have been two national surveys about the use of structured decision making in juvenile courts. Barton and Gorsuch (1989) completed a survey of courts in thirty-seven states and found that almost 47 percent used formal risk assessment tools to classify offenders and inform post-dispositional decisions. Thirty percent used formal classification procedures, but these did not include risk assessment, while 22 percent reported that they do not use any formal assessment classification instruments (Barton and Gorsuch, 1989). More recently, Towberman (1992) surveyed fifty states to determine the extent to which juvenile courts used structured decision making procedures (Towberman, 1992). Her study found that while most states used some type of risk assessment technique, only a minority used formal, empirically-derived classification procedures.

The primary relevance of structured decision making to accountability in juvenile justice is its "rationalizing" capability. Several researchers have proposed, for example, that in so far as formal assessments can help determine appropriate treatments, punishments, and levels of social control, they should be a key component of the accountability-based sanctioning model (Resnick, 1992; Petersilia and Turner, 1985; Zalman, 1979). Thornberry (1973, 1979) highlighted the need for guidelines to reduce sentencing disparity and arbitrariness in juvenile justice. Trends in the administration of juvenile justice provide ample evidence that decision making changes are needed. For example, a study by Krisberg et al.

(1993) of 14 different states found that one-third of the populations in training schools in these states did not require long-term secure detention, which the use of SDM could have prevented. With the considerable cost of secure detention, estimated at between \$35,000 and \$110,000 per person per year, placing these youth in secure confinement takes resources from alternative programs that could be used for prevention or community-based intervention programs.⁴

Similarly, Austin et al. (1994) found that in a sample of 29 states, less than one-third of youth were placed for "person" offenses. The majority of youth were confined for property, drug or public order offenses (Austin et al., 1994). These findings raise the issue of whether secure confinement is being used effectively, and whether decision makers are being held accountable for their use of such scarce, expensive, and potentially harmful resources when used inappropriately. According to Dean Champion, an expert on offender classification and author of the authoritative book, *Measuring Offender Risk: A Criminal Justice Sourcebook* (1994), "these quantitative aids help to avoid inconsistencies and disparities in the imposition of prison sentences and the length of imprisonment" in addition to providing justice professionals with the resources to make "informed decisions" (Champion, 1995, pp. 48-49; Dixon, 1995). At the same time provisions can be made for consideration of exceptional factors related to particular characteristics of the youth, family, or community.

Use of SDM may reduce levels of racial disparity in sanctioning, if the variables in the instrument have equal applicability across the entire population. This can correct for differential perceptions of juveniles and their behavior which may result in racial disparities in official assessments of a youth's risk of future serious crime (Bridges and Steen, 1998). In their study of racial disparities, Bridges and Steen (1998) point out that probation officers portray African American youth differently than white youth in court reports, often attributing their delinquency to negative attitude and personality traits while for whites they emphasize aspects of the youth's social environment. They also note that court officials rely more heavily on negative attributions than on the severity of the youth's crime or his or her prior crime record in predicting recidivism.

Sarri et al. (1998) examined the relationship between case characteristics and commitment decisions in Michigan to investigate the problem of disproportionate minority confinement in the state. Several counties in Michigan use a formal risk assessment instrument developed by the Michigan Department of Social Services in collaboration with the National Council on Crime and Delinquency to guide sanctioning decisions (Baird et al., 1984). The study found that in Wayne County, approximately one out of every two (46%) SDM sanctioning recommendations for males was overridden at the discretion of a judge. For females the level of override of recommendations for community-based

⁴ Many programs as of 2000 cost upwards of \$125,000 per person, per year, particularly if they have any specialized

placements was 56 percent. The principal reasons for the overrides were the lack of alternative community-based placements. The vast majority of these discretionary overrides escalated the youth's sanction and resulted in institutional confinement rather than the non-institutional placement originally recommended by SDM procedures. This study also reported that, on average, minority youth in the state were less likely than their white counterparts to be evaluated as "high risk" offenders. In spite of this observation, and the fact that only seventeen percent of Michigan's juvenile population was African American in 1990, more than sixty percent of the youth confined in Michigan's secure institutions between 1991 and 1994 were African American. Indeed, several majority and minority youth with low and moderate risk classifications were nonetheless committed to secure facilities rather than the recommended community-based alternatives.

Research in other jurisdictions also suggests that, in spite of formal policies mandating their use, structured decision making procedures may be underutilized in the courts and agencies that comprise juvenile justice systems. Barton and Creekmore (1994) studied the use of Dispositional Guidelines in New Hampshire by caseworkers in the Division for Children, Youth and Families (DCYF) and District Court Judges. The primary purpose of this structured decision making model was to promote greater accountability and fairness in training school commitment decisions. The study found that the guidelines were largely ineffective, not because they failed to generate appropriate sanction recommendations, but because the structured decision making model was never truly implemented. In particular, it was found that fewer than two-thirds of the judges had ever used the SDM instruments and that many of the Juvenile Services Officers (i.e. probation officers) reported using the instruments retrospectively rather than prospectively as intended. In other words, probation officers irregularly completed the assessments and oftentimes did so after decisions had already been made, while judges typically did not receive the recommendations and in other instances simply ignored them (Barton and Creekmore, 1994). The study concluded that since judges and probation officers were still using their own unstandardized criteria to classify individuals and assign sanctions, the mandates of the state were not being realized by the introduction of structured decision making.

Most of the research on the types of SDM instruments is focused on "risk assessment" and less attention has been given to assessment of protective factors or resources. Yet, as Loeber and his associates (2000) have shown, family and community resources were the most significant factor in prevention and reduction of serious delinquent behavior. Factors included in "early" risk classifications included physical and biological features (Champion, 1994, p. 23). These crude and controversial approaches to classification were eventually replaced as criminologists and criminal justice experts sought

treatment (Pottick, 2000).

to combine psychological, social, socioeconomic and demographic factors to make behavioral predictions. The modern risk assessment procedures use various combinations of legal, socio-demographic, and psychological measures to make predictions about future offending behavior and inform various sanctioning decisions (Champion, 1994; Joyce, 1985, p. 78). Risk assessments can be obtained to inform decision making at all stages of juvenile processing including detention decisions at intake, disposition and institutional placement, and approaches to probation supervision (Champion, 1994).

Research by Morris and Miller (1985) suggests that predictions of "risk" may be developed using variably abstract types of information including the following: offending behavior and offense characteristics (anamnestic prediction), how other comparable offenders have behaved over time (actuarial prediction), and direct diagnosis of individual offenders by clinical professionals (clinical prediction). A review of existing models suggests that each of these approaches to prediction is used, often in combination, to develop the group of factors and weighting schemes for assessment instruments (i.e. actuarial) and complete assessments of individual risk (i.e. clinical). Thus, a wide array of "risk factors" may be used to classify offenders. Factors typically considered include age at first referral or adjudication, number of prior referrals or arrests, number of out-of-home placements or institutional commitments, absconding, school behavior and attendance, substance abuse, family stability, parental control, psychological mental health, and peer relationships (Baird, 1984; Farrington, 1983; Farrington and Hawkins, 1991; Hawkins, Catalano, and Miller, 1992; Hamparian 1998; and Towberman, 1992). While these variables are used in a variety of combinations and with different assigned weights on specific instruments, they are common components of risk assessment procedures. Other instruments place greater emphasis on socio-psychological variables related to the juvenile (LaTessa, 1999).

An increased focus on risk assessment and management in child welfare undoubtedly influenced its development in juvenile justice. Gambrill and Shlonsky (2000) report that as of 1996 at least 76 percent of the states used risk assessment as a decision aid in child welfare. As of 2001, we do not have comparable data regarding its use in juvenile justice, but it is conservative to state that far fewer states employ risk assessment systematically in juvenile justice. In their review, Gambrill and Shlonsky (2000) examine the validity and reliability of the results and point out that in all of the extensive research, decision-making in child welfare has been characterized as of low reliability and questionable validity. Some of the reasons for these results stem from the absence of base rate data, problems in predicting for specific individuals, and issues of measuring severity and sensitivity in predicting reoccurrence of the problematic behavior. Gambrill and Shlonsky (2000) also point out that it is far easier to develop a valid instrument than it is to implement its appropriate and effective use. All of these issues regarding risk

assessment and risk management in child welfare seem to be manifest in the use of risk assessment in juvenile justice.

In summary, studies point to a number of problems which may produce undesired results and undermine the ability of SDM procedures to promote individual and system accountability. Major problems discovered in the research literature have generally four sources:

1. Implementation of SDM policies and procedures

Differences in the quality of training, support from management and central administrators, and follow-up evaluation and planning can obviously influence the nature and effectiveness of reforms in the organization of decision making.

2. Sanction and treatment resource environment in courts using SDM procedures

As this decision-making model requires a reasonably complex continuum of delinquency service resources where the placement alternatives available generally match the volume and diversity of "offender types" the assessments are capable of producing, it is likely that court communities with limited service options will be incapable of realizing the full potential of SDM. In other words, while they may serve a useful function in identifying the need for new resources as client populations change, well designed SDM models should also be grounded in the existing resource environment of the court community. Indeed, accountability-based sanctions require that the system have a range of resources and programs for the differential placement of youthful offenders (Butts & Barton, 1990; Maupin, 1993; Altschuler, 1994). Adequate resources are necessary to insure that a range of sanctions are available that fit both the needs of youthful offenders and the requirements for a safer society.

3. Need for greater clarity regarding the purposes for which SDM instruments are used

Decision making for detention vs. disposition vs. case management vs. prediction of recidivism all have different requirements and, therefore, probably require different procedures and instruments. The risks and/or needs that are measured also need clarification for different purposes.

4. Unanticipated and undesired consequences in the handling of cases using SDM

There are problems associated with the design of SDM models – both the assessment procedures and actual instruments – that may result in unanticipated and undesired consequences. Poorly designed risk classification procedures and instruments may, for example, result in excessive false positive and false negative attributions. A false positive assessment occurs when an offender is assessed as higher risk (and committed for longer periods and/or at higher security levels) than is appropriate. False negative

assessments would result in relatively high-risk offenders being classified as lower risks and placed in less restrictive confinement for shorter terms than appropriate. Design related problems can produce collateral damages as well.

The implementation of a SDM model requires considerable support from the decision makers themselves, and the perception of a poorly designed model may reduce levels of policy compliance among key practitioners. To be sure, it is unlikely that these problems with SDM will be completely and continuously avoided in light of the practical realities of juvenile justice administration (i.e. limited county budgets, time constraints, staff turnover, and public pressures). Nonetheless, the effective development of a structured decision making model likely requires a continued effort to minimize problems associated with implementation, available resources, and design.

STRUCTURED DECISION MAKING MODELS: A TECHNICAL OVERVIEW

States have developed a great variety of structured decision making technologies. These tools, designed to aid both court and agency decision makers at various points in case processing and management, have a number of developmental origins. National organizations (such as the National Center for Crime and Delinquency (NCCD)) have been significantly involved in the development of this innovation and somewhat successful at contracting their assessment services to state and local juvenile justice systems. In some cases, instruments developed by NCCD or a similar organization for use in a specific jurisdiction have been borrowed and adapted elsewhere, often without NCCD's involvement. In other cases, local administrators and practitioners have taken the initiative themselves to develop structured decision making technologies, preferring to have greater control of the design and function of the tools. As such, "structured decision making" is only a broad concept that refers to several instruments or tools being used across state and local contexts. In an effort to establish some conceptual parameters for our analysis of this innovation in juvenile justice, we consider below the six major types or categories of structured decision making technology currently being used to facilitate delinquency case processing and management: 1) Risk assessment, 2) Needs assessment, 3) Assessment of protective factors or resources, 4) Security level classification, 5) Detention screening, and 6) Probation Management.

Risk Assessment: An Estimate of Dangerousness and/or Recidivism

Risk assessment instruments, generally intended to determine "propensities to cause harm to others or oneself," are tools designed to identify how dangerous an individual offender is likely to be and

to predict the likelihood of recidivism. In this context of criminal or juvenile justice, dangerousness typically refers to the probability of recidivism or that an individual's delinquent behavior will escalate once released (Champion, 1994).

Daniel Glaser (1985) pioneered the use of actuarial vs. clinical models for identifying risk categories, and, since then, many researchers have developed instruments and models for the assessment of risks and needs, broadly and narrowly defined (Gottfredson and Gottfredson, 1988; Andrews, 1992; LaTessa, 1999; Baird et al. 1994; Hamparian, 1998). Nearly all begin with certain assumptions about youth development. Attitudes and behavior, prosocial and antisocial, are molded by personality, family, and community. One useful model is that proposed by Felton Earls (1994), the "community-family-child" model:

This model is layered like an onion, with each layer creating pressure and exerting demands on the ones on either side. On the outside are neighborhood/community characteristics: resources, role models, supports, dangers, and opportunities. In the next layer are the characteristics of the caregiver: beliefs, physical and mental health, social support, experience with other children and perceptions of the neighborhood. In the next layer are family characteristics: childbearing methods, aspirations for the child and perceptions of the child's strengths and weaknesses. In the next layer are the characteristics of the child, keeping in mind that as children mature, they develop their own strategies for dealing with their own neighborhood. At the center of the model is the child (p. 30).

All too often only attributes of the youth are considered in SDM instruments that assess the risk for criminal behavior, but there is ample evidence to indicate that justice system, family, and community environmental factors can be of equal importance. In their formulation of a typology of delinquency, Ohlin and Cloward (1961) emphasized the importance of community factors, as do Hawkins, Catalano and Miller (1992) in more recent work. The latter have stressed assessment of cultural factors (traditions that encourage or restrain violence); physical environment (pollution, traffic, noise, territorial invasion, personal space, organized crime); presence of aggressive cues (guns, knives and other weapons); and disinhibitors (alcohol, drugs, and successful criminal models). Sarri et al. (1998) found, in a long term follow-up study of juvenile offenders, that unless family and community variables were considered following release from residential programs, a very high percentage of juvenile offenders recidivated. Altschuler (1995) has made similar arguments in his formulation of reintegration programs.

All of the widely used instruments and models were developed for male juveniles and then applied in the assessment of females although a marked difference in male and female delinquency has long been noted. We will discuss gender as a criterion for structured decision making later.

The SDM evaluations are typically used to inform sanctioning decisions at multiple points. For example, formal assessments of a juvenile offender's risk are often made by intake officers deciding whether to detain, dismiss, remand (involve parents), divert (refer to a service agency), or refer (forward to prosecutor) a youth's case; by prosecutors deciding between pretrial release and "preventive incarceration"; and by judges deciding between less restrictive community-based and more secure out-of-home placement (i.e. training school) alternatives. Risk assessments are typically conducted by court probation officers anywhere between the initial intake point and eventual disposition hearing for adjudicated delinquents. This step occurs at the point of decision making regarding detention so prosecutors, magistrates, and defense attorneys may be involved in the initial hearing that most courts attempt to conduct within 24 hours of a youth's detention.

Risk assessment information may be provided to judges as an aid in their deliberations, but our study of 12 courts revealed that in several instances judges or magistrates were not provided with risk assessment information for their deliberation. In theory, risk assessments allow judges to make patterned responses informed by careful predictions of an offender's likelihood of committing future crimes (Albonetti, 1991). In practice, their overall value may be a function of model design. As we shall see, there are important variations in the formality of risk assessment procedures, their processing functions, and content of actual risk assessment instruments from one juvenile court to the next (Howell, 1995).

The output obtained from risk assessment procedures may also vary. Some risk assessment instruments are used to develop an actual numerical value (i.e. "risk score") which indicates the likelihood of recidivism and corresponds with a recommended sanction. Other instruments yield only a qualitative or clinical assessment based on the judgment of the individual completing the assessment. Like Glaser (1985), many researchers today advocate the development of actuarial models, but, to date, the results from evaluation of both qualitative and quantitative instruments has been that of low validity and reliability, especially where they have been implemented systematically with a variety of decision makers (Lovegrove, 1989). The lack of attention to environmental constraints on youth behavior or the inclusion of variables that are culturally biased jeopardizes some instruments from the beginning.⁵

⁵ For example if "being from a single parent household" results in a negative score, African American youth will be discriminated against, regardless of their offense, because the majority of African American youth grow up in single parent households (U. S. Census Bureau, 2001). Or, if "having been abused or neglected" results in a negative score for females, the results will be biased when the criteria are supposed to be variables that belong in a needs assessment and are subject to change.

Needs Assessment: Developing a Treatment Prescription

In adult court, the primary aim of structured decision making is to institutionalize "just desserts" in criminal sanctions. In the juvenile court the primary goal until the 1980s was rehabilitation, so much more attention has been given to assessment of needs to provide a basis for intervention and treatment. According to the current "operations handbook" used by juvenile court practitioners in a Michigan county, the needs assessment assists in the development of an effective case plan (i.e. disposition or sentence) by ensuring that certain types of problems are consistently considered through a qualitative review of the case and periodic reassessments. Furthermore, needs assessment procedures are expected to yield an informational database to be used in the planning and evaluation of agency programs, policies, and procedures.

As with risk assessment, the factors included in needs assessments vary widely from one instrument to the next. More frequently considered issues include substance abuse, physical and mental health, family relationships, housing, abuse, victimization and domestic violence, and school attendance and performance.⁶ Needs assessments in the court are primarily completed by probation officers who use the information in designing treatment and education services. They are of more limited use in public residential facilities unless there is a range of resources available.

Assessment of Protective Factors

Successful intervention programs must incorporate opportunities for juveniles to develop protective factors so that the risks for delinquency can be avoided or minimized. Some of these would include being drug free, mental and social health, integration into normative communities, improvement in educational performance and career outlook, development of social capital, improvement in parenting readiness and living in a positive family environment. While protective factors are often assessed less frequently than risk factors, their assessment can be an important component of SDM, especially when making placement decisions.

⁶ Michigan Family Assistance Agency, Office of Delinquency Services Children's Services Bulletin (1998). This bulletin is 23 pages long, including risk and needs assessment and security classification as well as reassessment protocol. Obviously, workers with large caseloads are unlikely to complete these assessments carefully and objectively.

Security Level Classification

Security level classification instruments are typically adapted from those used in the adult classification system to determine the most appropriate placement alternative among several that require different levels of security to prevent absconding or negative behavior toward staff or other offenders. They are primarily used at the state level for youth who are committed to the state for placement, but they may also be utilized by local residential facilities for intra-institutional assignments.

Detention Screening

Almost every detention facility of medium or large-size counties utilizes some type of detention screening instrument to determine who must or should be held until the trial date. The criteria for holding are usually twofold: likelihood of absconding if not held, seriousness of the crime charged and/or risk that the juvenile will harm him/herself. Some courts have now developed sophisticated instruments that are fully integrated with the court's management information system so that obtaining intake information need not be duplicated. In addition being used by probation officers, the information is utilized at the detention hearing by judges, prosecutors, and defense attorneys.

Probation Management

Both risk assessment and needs assessment instruments are utilized by probation to assign cases for low, medium and intensive supervision. They also are utilized for periodic reassessment and for termination decision making. It is probable that structured decision making is utilized more frequently and effectively at this stage of juvenile court intervention.

THE CASE FOR A COMPARATIVE ANALYSIS OF STRUCTURED DECISION MAKING

Technologies highly dependent upon human input and interpersonal cooperation will never automatically produce the desired results. In light of this human factor, equally important as the design and methodology of structured decision making procedures are questions regarding implementation, training, and decision maker receptivity to procedural innovation. A study of Minnesota's adult sentencing guidelines found that while decision making "adhered to guideline standards during early implementation," sentencing practices "shifted toward pre-guideline patterns in the later years of

institutionalization" (Dixon, 1995). The importance of remaining attentive to the potential gaps between court policies and actual practices is reflected in a comment made by an adult court judge in a state which had adopted sentencing guidelines. Describing his own approach to decision making at sentencing, he explained that he had little use for detailed assessments as he could, "get a good picture of someone in a few minutes" (Ulmer and Kramer, 1996, pp. 399 & 403). There are likely diverse and critical differences in the degree to which implementing structured decision making in juvenile justice systems nationwide has impacted actual procedures by "structuring" the use of discretion among court decision makers. Accurately measuring the relationship between the use of structured decision making and case processing trends, including issues related to accountability-based sanctioning, requires careful attention to both the *formal organization* (i.e. legislative codes, SDM models, etc.) and the *actual practice* (i.e. norms) of decision making in diverse county juvenile "court communities."

While most state and local jurisdictions have institutionalized some assessment procedures (i.e. case histories), very few have ever attempted to develop formal "actuarially based" instruments which standardize or "structure" decision making processes. In other words, while virtually every court (and many peripheral agencies) handling juvenile offenders uses some method of assessing individual case characteristics, many do not stipulate a formal procedure including standard factors which should be taken into consideration, and even fewer have developed statistically validated instruments (i.e. based on observed recidivism rates) which weight these factors relative to each other to obtain an assessment and accompanying recommendations.⁷

Among courts that have implemented structured decision making procedures there is often significant variation in the design of their assessment instruments. Moreover, in the broadest sense of the word, decision making in any particular court is "structured" by a host of contextual factors operating at a level above and beyond formal and standardized decision making aids and procedures. For example, decision making outcomes may reflect prevailing sentencing philosophies and priorities among court personnel, fiscal constraints on the assignment of sanctions, differences in state legislative codes governing the use of sanctions, and still other important characteristics of individual "court communities" (Dixon, 1995; Ulmer and Kramer, 1998). Analysis of structured decision making and the development of "accountability-based sanctions" in multiple states and courts requires attention to each of these contingencies. For this reason, comparative research will likely provide the most useful insight into the relationship between structured decision making and accountability in juvenile justice.

⁷ See Sarri (2000) "Enhancing the accountability of local juvenile justice: risk and needs assessment." Paper presented at JAIBG conference, San Jose, CA, February. This paper presents a variety of instruments that are in use in the U.S. For other examples see Howell (1995) "Guide for implementing the comprehensive strategy for serious, violent and chronic juvenile offenders." Washington: Office of Juvenile Justice and Delinquency Prevention, pp. 189-230.

MODELS OF STRUCTURED DECISION MAKING IN FOUR MIDWESTERN STATES

In this section, we provide summary information about the use of structured decision making in Michigan, Ohio, Indiana, and Illinois. The summaries focus primarily on the development and implementation of structured decision making models in each state. When possible, we also review existing information about the use of structured decision making in each state and the impact of the innovation on case processing trends.

Michigan

Structured decision making was first formally adopted in Wayne County, Michigan in 1993 and statewide by 1995. Michigan's Family Independence Agency (FIA) contracted with the National Council on Crime and Delinquency (NCCD) to develop its risk assessment instruments. NCCD assisted in developing, implementing, and/or revising risk assessment and classification systems used in more than 20 state and local jurisdictions between 1990 and 1993 (Michigan Family Independence Agency, 1998). Many juvenile courts were reluctant to accept structured decision making procedures. A recent survey of court administrators in Michigan reveals that SDM has not been implemented with any degree of consistency in county juvenile courts. In the "Strategic Development Plan for [Michigan] Juvenile Justice" (May, 1998) it is reported that, when asked how often risk assessment is used in their courts to aid in making a disposition, 52 percent of the surveyed court administrators replied "never." Indeed, 86 percent of the respondents ($N = 58$) indicated that the SDM tool is used less than 25 percent of the time. Only 8.5 percent report "always" using the risk assessment instrument. In light of this reality, we could modify Walker's observation about the meaning of "criminal justice" by adding that it represents not simply the sum total of discretionary decisions but the sum of decisions made within specific organizational contexts and their decision making routines.

In the past, the Michigan Family Independence Agency (FIA), in which the state Office of Delinquency Services is located, has not always followed through when SDM recommends community-based placements or on letting youth return home instead. Judges respond by requiring a placement (low-medium) which at least guarantees that the youth receives some intervention. Michigan has a very long and complex risk and needs assessment as well as security classification form, and probation officers report that they have insufficient time to secure the information required to complete the form. More recently some counties have begun to use a more abbreviated version that was also developed by the NCCD.

Ohio

All of the courts studied in Ohio had well-developed risk and needs assessment instruments which were utilized for detention screening, intake, post-disposition decision making, and especially in probation for probation management and periodic reassessment. Instruments were developed initially by NCCD, but more recently by teams from Ohio State University, Cleveland State University, and the University of Cincinnati for several counties. In some there have been careful validation studies and the results have been used to modify existing instruments. Those instruments that focus primarily on behavior rather than on psychological or family characteristics appear to be more statistically reliable in the validation studies. The Department of Youth Services also employs structured decision making at the state level to determine placement assignments for all youth committed by the counties to their care. The use of the SDM at the state level was far greater for males where there were numerous alternative facilities to which youth could be assigned, in contrast to females where the placement options were quite limited. The YO-LSI instruments currently utilized by the Department of Youth Services were developed and are being piloted by LaTessa and his associates from the University of Cincinnati. To date, results from the validation studies have not been published.

Chapter 5 highlights the use of structured decision making in the three urban courts that were studied. These courts used a variety of different instruments and employed them somewhat differently in decision making. For all, however, the most extensive use was for probation decision making and management. Probation officers expressed a strong preference for needs assessment instruments to aid them in designing treatment intervention. One of the courts had developed a detention screening instrument that was linked with their online information system so information from detention was immediately available to intake and other departments and officials. This appeared to have resulted in greater use of the information in early decision making, and it also allowed for comparative assessments as these were needed. There was, however, no consideration of the need for attention to gender as a critical factor even though female crime in that county was distinctly different from male crime.

Indiana

The use of formal SDM procedures was relatively rare in Indiana and occurred in only two sites during the course of our research. Indiana developed a formal SDM process for probation caseload assignment and to determine level of confinement and length of stay for youth committed to IDOC.

Otherwise, decisions in the sample courts were structured through written administrative procedures and results were reviewed using individual and group supervision and judicial review.

The Indiana Judicial Center (IJC) created a risk assessment for probation classification using a study of closed probation files of adults who had not completed the terms of probation. They identified 20 variables that were similar to those in other risk assessment instruments. The judges decided to use this instrument in every probation department, both juvenile and adult, in 1992. However, there was no funding for implementation, and there has been no tracking of results among the probation departments. Only one court in our sample had ever used the instrument and was not presently doing so.

The juvenile division of the IDOC adapted the IJC instrument primarily to predict recidivism. It has been applied along with a grid depicting the seriousness of the commitment offense to determine the length of stay and the level of confinement in IDOC facilities. IDOC has been faced with lawsuits and a consent decree on overcrowding as well as dissatisfaction by juvenile courts about their inability to determine length of stay and institutional assignments. Judges can determine the length of sentence to IDOC in some cases, but only a few courts had increased their use of determinate sentencing. A study of the IJC instrument by IDOC found that it was not well validated and its internal consistency was low (.47). Furthermore, even though it was developed to predict recidivism, in fact, it did not (Lemmon and Calhoun, 1998). IDOC is revising this instrument with the help of the NCCD which will also develop an assessment instrument for sex offenders. The IDOC has developed a needs assessment instrument but it has not been used in the counties in our study.

Illinois

Juvenile courts in Illinois are increasingly using SDM, but a respondent reported that Illinois was "behind the times with regard to risk assessment," and that juvenile courts "hold onto discretion at every point that they can." The Juvenile Division of the Administrative Office of the Illinois Courts (AOIC) has developed an instrument for use in probation case management that is used statewide. This instrument recommends the number of contacts that a probation officer is to have with a youth from three times per month to one contact per two months. Currently, they are considering adding another level to the instrument because the number of cases in the maximum cell are lower than expected. The AOIC instrument was developed "from the ground up" with the input of probation officers and is largely based on school variables. However, the implementation of this instrument has been very difficult. Probation officers are less interested in objective instruments and are not widely using the tool.

Several of the courts in our sample use the Strategies for Juvenile Supervision (SJS) instrument for case management. This instrument provides more in-depth information about needs. However, the

courts reported that using the SJS was difficult because it was cumbersome and time consuming. Counties also use the Juvenile Assessment and Supervision System (JASS). This instrument requires an interview with the juvenile, information on the juvenile's arrest history, school and family background, peer relationships, substance abuse, health, and the youth's assessment of his/her problems and goals for the future.

AOIC is interested the development of detention screening tools since many counties do not have one. Among our sample courts, all three used different instruments and agreed that detention screening was important. There was interest in developing alternatives for detention both for pre-adjudication and post-adjudication. Overall, there is strong encouragement from AOIC for more use of SDM. Judges and State's Attorneys reported some support for risk assessment in detention and probation, but they did not want instruments to substitute for the judgment of the officer. Probation officers remain skeptical about their utility.

COURT ACTORS' VIEWS AND USE OF STRUCTURED DECISION MAKING

While several studies have examined the characteristics of structured decision making technologies and their general application in juvenile court contexts, researchers have paid relatively little attention to how juvenile justice professionals in these contexts have actually experienced this innovation. This research seems important in light of the possible incongruity between the intended reform and resulting practice. For example, as we suggest in Chapters 4 through 7, resource structures or other factors in local court contexts may influence both patterns of reform and attitudes toward this innovation. As in the case of sentencing guidelines, some decision makers may resist this reform, viewing it as an excessive restriction of their discretionary power. Decision makers might also have insight on how these innovations can be improved, either by modifying specific structured decision making tools or by creating an organizational context more conducive to their use. In short, considering the attitudes of juvenile court professionals toward structured decision making may afford greater insight into the actual nature of this reform, as well as its potential benefits and limitations for juvenile justice administration.

Our survey of juvenile court professionals included several questions gauging orientations toward structured decision making innovations.⁸ In this chapter we present findings related to three sets of issues: 1) patterns of SDM use and training, 2) attitudes toward the general value of SDM, and 3) evaluations of whether several goals have been realized by the use of SDM. While our main objective is to observe general trends in professional orientations toward structured decision making, Chi-Square tests of statistical significance are employed to identify relationships between these trends and the state

⁸ See Chapter 2 for a description of the sample.

context, the court size, and respondents' occupational roles.⁹ A list of the specific variables we consider is provided in Table 8.1.

Table 8.1: Measures of Orientation Toward Structured Decision Making

<p>1) <u>Patterns of Use</u></p> <p>Ever used SDM</p> <p>Formal training</p> <p>Frequency of risk assessment instrument usage</p> <p>Frequency of needs assessment instrument usage</p> <p>Frequency of security level classification usage</p>
<p>2) <u>Value Attributions: General</u></p> <p>How valuable is risk assessment?</p> <p>How valuable is needs assessment?</p> <p>How valuable is security level classification?</p>
<p>3) <u>Value Attributions: Stage Specific</u></p> <p>How valuable is SDM at pretrial detention?</p> <p>How valuable is SDM at post-adjudication placement?</p> <p>How valuable is SDM at case-management?</p>
<p>4) <u>SDM and Goal Achievement (Has the use of SDM facilitated the realization of listed goal?)</u></p> <p>Place fewer in secure institutions</p> <p>Make consistent placement decisions</p> <p>Make appropriate placement decisions</p> <p>Promote decision maker accountability</p> <p>Prevent overrepresentation</p> <p>Only commit serious offenders to secure institutions</p>

Patterns of Use

While each of the courts in our sample employs some form of structured decision making in delinquency case processing, the specific instruments and procedures they use vary widely across contexts. Some courts use very rudimentary tools at only one decision making point (i.e. detention intake), while others utilize more elaborate instruments at multiple stages of case processing (i.e. detention, disposition, and probation case management). In many courts, the SDM instruments are used by designated persons or completed in specialized units so the average probation officer may only receive

⁹ Prosecutors and defense counsel are excluded in these analyses. Pre-tests suggested that they were largely unfamiliar with the technology, perhaps because they are not typically involved in either the completion or consultation of SDM instrument. Therefore, in order to simplify the instruments used in surveying these respondents, the SDM section was removed.

(rather than collect) the information. In light of this variation, unless otherwise indicated, “use” data presented in Table 8.2 should be interpreted as indicating individual experience with using the technology rather than compliance with policy.

As shown in Table 8.2, fifty percent of respondents have actually used structured decision making at some point in delinquency case processing. Levels of use suggest that SDM is a somewhat prominent innovation among professionals we surveyed. Levels of use were reported by respondents as highest in Illinois and Michigan, while somewhat lower in Ohio.¹⁰ Probation officers were far more likely to have used SDM than judges ($p < .001$). This difference is likely a reflection of the probation officer’s primary role in completing SDM instruments in the preparation of case files and in the course of case management. Judges, on the other hand, are only likely to consult SDM instruments during court proceedings, and only when both the instruments are available and the judge is so inclined. In some Ohio courts, for example, magistrates reported not having any access to SDM reports.

Respondents are slightly less likely to have been trained in the use of SDM than they are to have ever used it (Table 8.2). Just less than half (46%) of respondents indicated that they had received formal training in the use of SDM. Significant state-level differences in levels of training were observed as, once again, professionals in Illinois (60%) were most likely to have received training and those in Ohio (44%) and Michigan (46%) least likely ($p < .05$). Professionals in Metro courts (56%) were more likely than Mid/Non-Metro court practitioners (37%) to have been trained ($p < .001$), and probation officers (57%) were far more likely than judges (20%) to have received formal training ($p < .001$).

Our final “use” measures of interest consider how frequently professional utilize specific SDM instruments in the course of delinquency case processing. Respondents were asked to indicate frequency of use of risk assessment, needs assessment, and security level classification instruments on a 6-point scale ranging from 0 (never) to 5 (76% of the time and above). To ease interpretation, we consider a rate of fifty percent or greater as indicating somewhat consistent use, and a frequency lower than fifty percent to indicate irregular use. As shown in Table 8.3, we found that risk assessment instruments were the only SDM instrument that professionals were likely to use with any regularity (57%). Needs assessment (44%) and especially security-level classification (35%) instruments were used significantly less often by professionals in our sample.

¹⁰ State levels of SDM use should be interpreted with caution as different states had different levels of missing data on this question, ranging from 8.5 to 32.7 percent.

Table 8.2: Use of Structured Decision Making

	Ever Used SDM		Formally Trained		
	Yes	No	Yes	No	
State					
Michigan	60.2% (59)	39.8% (39)	45.6% (47)	54.4% (56)	$\chi^2(3)=9.49^*$
Ohio	49.2% (64)	50.8% (66)	43.7% (59)	56.3% (76)	
Indiana	64.3% (45)	35.7% (25)	52.6% (40)	47.4% (36)	
Illinois	65.9% (120)	34.1% (62)	60.4% (119)	39.6% (78)	
Total	60.0% (288)	40.0% (192)	51.9% (265)	48.1% (246)	
Court Size					
Mid/Non-Metro	56.4% (62)	43.6% (48)	37.2% (42)	62.8% (71)	$\chi^2(1)=.786$
Metro	61.1% (226)	38.9% (144)	56.0% (223)	44.0% (175)	
Total	60.0% (288)	40.0% (192)	51.9% (265)	48.1% (246)	
Type					
Probation	63.9% (267)	36.1% (151)	57.0% (253)	43.0% (191)	$\chi^2(1)=20.25^{***}$
Judge	33.9% (21)	66.1% (41)	17.9% (12)	82.1% (55)	
Total	60.0% (288)	40.0% (192)	51.9% (265)	48.1% (246)	
Gender					
Males	53.9% (118)	46.1% (101)	47.4% (110)	52.6% (122)	$\chi^2(1)=8.84^{**}$
Females	67.5% (158)	32.5% (76)	56.8% (142)	43.2% (108)	
Total	60.9% (276)	39.1% (177)	52.3% (252)	47.7% (230)	
Race					
White	57.5% (149)	42.5% (110)	48.0% (132)	52.0% (143)	$\chi^2(2)=3.51$
Black	62.1% (64)	37.9% (39)	57.4% (62)	42.6% (46)	
Other	71.4% (35)	28.6% (14)	57.7% (30)	42.3% (22)	
Total	60.3% (248)	39.7% (163)	51.5% (224)	48.5% (211)	

* p < .05, ** p < .01, *** p < .001

Table 8.3: Frequency of Use of Structured Decision Making.

	Freq. Of Risk Assessment Usage		Freq. of Needs Assessment Usage		Freq. of Sec. Level Classification Usage		
	<50%	>50%	<50%	>50%	<50%	>50%	
State							
Michigan	45.1% (37)	54.9% (45)	65.3% (49)	34.7% (26)	56.6% (43)	43.4% (33)	
Ohio	40.6% (41)	59.4% (60)	48.2% (41)	51.8% (44)	69.7% (53)	30.3% (23)	
Indiana	52.5% (32)	47.5% (29)	52.5% (32)	47.5% (29)	61.5% (32)	38.5% (20)	
Illinois	41.3% (71)	58.7% (101)	57.1% (76)	42.9% (57)	68.9% (84)	31.1% (38)	
Total	43.5% (181)	56.5% (235)	55.9% (198)	44.1% (156)	65.0% (212)	35.0% (114)	
			$\chi^2(3)=2.77$		$\chi^2(3)=5.11$		$\chi^2(3)=4.19$
Court Size							
Mid/Non-							
Metro	35.2% (32)	64.8% (59)	39.5% (34)	60.5% (52)	57.5% (42)	42.5% (31)	
Metro	45.8% (149)	54.2% (176)	61.2% (164)	38.8% (104)	67.2% (170)	32.8% (83)	
Total	43.5% (181)	56.5% (235)	55.9% (198)	44.1% (156)	65.0% (212)	35.0% (114)	
			$\chi^2(1)=3.30^*$		$\chi^2(1)=12.39^{***}$		$\chi^2(1)=2.32$
Type							
Probation officer	41.9% (161)	58.1% (223)	54.8% (178)	45.2% (147)	65.0% (193)	35.0% (104)	
Judge	62.5% (20)	37.5% (12)	69.0% (20)	31.0% (9)	65.5% (19)	34.5% (10)	
Total	43.5% (181)	56.5% (235)	55.9% (198)	44.1% (156)	65.0% (212)	35.0% (114)	
			$\chi^2(1)=5.09^*$		$\chi^2(1)=2.18$		$\chi^2(1)=.003$
Gender							
Males	44.2% (87)	55.8% (110)	53.4% (94)	46.6% (82)	63.8% (104)	36.2% (59)	
Females	43.8% (88)	56.2% (113)	60.1% (98)	39.9% (65)	67.3% (101)	32.7% (49)	
Total	44.0% (175)	56.0% (223)	56.6% (192)	43.4% (147)	65.5% (205)	34.5% (108)	
			$\chi^2(1)=.006$		$\chi^2(1)=1.55$		$\chi^2(1)=.431$
Race							
White	45.0% (99)	55.0% (121)	59.1% (107)	40.9% (74)	69.3% (113)	30.7% (50)	
Black	41.1% (39)	58.9% (56)	54.1% (46)	45.9% (39)	61.0% (50)	39.0% (32)	
Other	51.1% (24)	48.9% (23)	60.0% (27)	40.0% (18)	59.1% (26)	40.9% (18)	
Total	44.8% (162)	55.2% (200)	57.9% (180)	42.1% (131)	65.4% (189)	34.6% (100)	
			$\chi^2(2)=1.29$		$\chi^2(2)=.690$		$\chi^2(2)=2.59$

+ p < .10, * p < .05, ** p < .01, *** p < .001

While there was no significant difference in this use pattern across states, court size was related to the frequency of SDM instrument utilization. Professionals in Metro courts were significantly less likely

to use both risk and needs assessment instruments than their counterparts in Mid and Non-Metro courts. Only 39 percent of practitioners in Metro courts indicated using needs assessment instruments with some consistency, whereas 61 percent of practitioners in Mid/Non-Metro courts indicated a regular use of needs assessment. An almost identical proportion of Mid/Non-Metro court practitioners (65%) used risk assessments regularly, compared to only 54 percent of practitioners in Metro courts. Court size was not related to the use of security level classification instruments. Finally, occupational role was moderately related to differences in use patterns, especially with respect to risk assessment. Judges were far less inclined to regularly use both risk assessment (38%) and needs assessment (31%) than were probation officers (58 and 45% respectively). Again, there were no role-related differences in the use of security level classification instruments.

Value and Usefulness of SDM

Having observed significant levels of general and practical familiarity with SDM, as well as variation in patterns of utilization, it is likely that professionals in our sample have formed a range of opinions on the value of this technology in delinquency case processing. To measure value attributions we asked respondents to first indicate, on a scale of 1 to 4 (with 1 being "not valuable" and 4 "very valuable"), the general value of each SDM tool. Next, we asked respondents to indicate the usefulness of SDM methods on a scale of 1 to 5 (with 1 being "not useful" and 5 "extremely useful") at each of the following three stages in delinquency case processing: 1) pretrial detention screening, 2) post-adjudication placement, and 3) post-commitment placement (i.e. delinquency case management).

Table 8.4 illustrates that professionals attributed the greatest overall value to needs assessment instruments, an expected finding in light of our field observation that these instruments were most often utilized regularly by the professionals we surveyed. Needs assessment instruments provide useful information to probation officers and other intervention staff about the youth and his/her family and community. Along with risk assessment, they can be utilized at multiple stages to evaluate changes in the juvenile, the family, or the community. For example, if the youth has a problem of school truancy and suspension, his/her placement in a new school environment may produce changes in both risk and needs assessment if performance changes in that new environment. In this scenario, professionals could realistically have occasion to use security-classification instruments less frequently than risk and needs assessment tools, since it likely to be used only with respect to the first placement disposition.

Table 8.4: Value of Various Types of Structured Decision Making

	Value of Risk Assessment			Value of Needs Assessment			Value of Security Level Classification		
	<u>N</u>	<u>M</u>	<u>SD</u>	<u>N</u>	<u>M</u>	<u>SD</u>	<u>N</u>	<u>M</u>	<u>SD</u>
<u>State</u>									
Michigan	110	2.76	0.95	100	2.85	1.08	101	2.81	0.95
Ohio	112	2.88	0.95	106	3.00	0.97	86	2.69	0.99
Indiana	63	2.73	1.04	62	2.77	1.08	58	2.59	1.06
Illinois	179	2.13	1.03	131	2.47	1.15	116	2.35	1.08
			F=17.16***			F=5.10**			F=3.93**
<u>Court Size</u>									
Mid/NonMetro	103	3.03	0.92	92	3.17	0.93	80	2.96	0.95
Metro	361	2.40	1.03	307	2.63	1.11	281	2.49	1.03
			F=30.90***			F=18.45***			F=13.26***
<u>Type</u>									
Probation	375	2.46	1.03	313	2.67	1.10	279	2.56	1.03
Judge	36	2.83	1.03	32	3.09	0.93	32	2.59	0.91
			F=4.39*			F=4.32*			F=.027
<u>Gender</u>									
Males	229	2.69	1.03	204	2.87	1.03	184	2.70	1.04
Females	213	2.39	1.03	177	2.66	1.13	160	2.52	1.00
			F=8.83**			F=3.65*			F=2.55
<u>Race</u>									
White	247	2.55	1.01	205	2.80	1.08	179	2.60	1.03
Black	109	2.76	1.01	96	2.92	1.04	95	2.76	1.03
Other	48	2.19	1.08	44	2.39	1.15	41	2.41	1.05
			F=5.31**			F=3.75*			F=1.68

+ p < .10, * p < .05, ** p < .01, *** p < .001

At the state level, Illinois respondents thought that SDM was less valuable for both risk and needs assessment than respondents in the three other states and less valuable for security-level classification than respondents in Ohio and Michigan. Respondents from Mid and Non-Metro courts found needs and

risk assessment more valuable than staff in large metropolitan courts. As we learned from field interviews, staff in smaller courts had fewer specialized resources that they could call upon so using SDM instruments provided some guidance that they could use comparatively over time and across clients. Judges more than probation officers value SDM instruments, even though we are aware that they themselves do not use them. However, they do provide information that is useful to them in monitoring probation staff performance with clients and is more objective information for pre-sentence investigation and review reports. There was no difference, however, regarding the value of SDM for security-level classification between judges and probation officers.

With respect to gender, men thought SDM was more valuable for risk and needs assessment only. With respect to race, the differences between African American and white staff were relatively small, but those classified as "other" – who may include Hispanics, Native Americans, and Asians – were generally lower than the other two groups in their assessments of the value of SDM.

As shown in Table 8.5, decision makers were generally inclined to assign a moderate level of usefulness to SDM at each of the identified stages: pretrial detention, post-adjudication disposition and post-commitment placement. There were, however, significant differences in these usefulness attributions across states, court sizes, and occupational roles. Ohio professionals placed a consistently high value on using SDM at all three stages, but particularly for post-adjudication placement, while Michigan respondents valued it at the post-commitment point but not for pre-trial detention. Overall, Illinois respondents saw it as least useful, perhaps because SDM is relatively new there and because of the types of instruments they use.

Just as professionals in Mid and Non-Metro courts indicated more value and utilization of SDM, these respondents were significantly more inclined than their Metro court counterparts to consider SDM useful at each stage of case processing and management. Mid and Non-Metro court professionals were particularly more likely than Metro court practitioners to consider SDM useful in post-adjudication placement ($p < .001$) and post-commitment placement ($p < .01$) decisions. It should be noted, however, that Metro courts were far more likely to have trained professionals responsible for clinical as well as SDM assessment than were Mid and Non-Metro courts. As a result, in Metro courts the probation officers may not directly use a SDM instrument because the decisions have been made by someone else. In Mid and Non-Metro courts, probation officers are often the only professional staff, so they may be far more likely to use SDM themselves. Finally, judges were somewhat more likely than probation officers to consider SDM useful at each processing stage. These differences were only significant in the case of post-adjudication placement, the stage where judges are most likely to use SDM procedures ($p < .05$). Again, for judges the SDM results provide some independent information to them in their disposition and

review decisions. Among racial groups, African American respondents generally rated SDM more useful in all decisions than did white respondents and respondents from other racial/ethnic groups.

SDM and Goal Achievement

Our final variables of interest consider the impact of SDM on the quality of juvenile justice administration. As discussed earlier in the chapter, this innovation in the organization of decision making has been rationalized on multiple grounds. Most notably, advocates of SDM have noted its potential to

Table 8.5: Usefulness of SDM at Stages of Court Processing

	Pretrial Detention			Post Adjudication Placement			Post Commitment Placement		
	N	M	SD	N	M	SD	N	M	SD
State									
Michigan	73	2.93	1.21	78	3.35	1.11	77	3.47	1.07
Ohio	89	3.38	1.31	88	3.53	1.11	84	3.49	1.11
Indiana	52	3.02	1.41	53	3.51	1.31	51	3.18	1.26
Illinois	136	2.97	1.37	144	3.03	1.38	133	3.01	1.36
			F=2.19*			F=3.70*			F=3.65*
Court Size									
Mid/Non-Metro	75	3.17	1.33	71	3.85	1.04	69	3.61	1.15
Metro	275	3.05	1.34	292	3.16	1.28	276	3.16	1.25
			F=.526			F=17.6***			F=7.23**
Type									
Probation	317	3.06	1.33	329	3.25	1.28	310	3.25	1.24
Judge	33	3.24	1.37	34	3.71	1.06	35	3.29	1.32
			F=.579			F=4.04*			F=.028
Gender									
Males	167	3.16	1.31	173	3.35	1.19	164	3.39	1.16
Females	166	3.01	1.33	172	3.26	1.34	165	3.1	1.31
			F=1.06			F=.500			F=4.42*
Race									
White	180	3.02	1.38	181	3.24	1.32	172	3.06	1.27
Black	87	3.37	1.22	91	3.52	1.18	89	3.63	1.12
Other	40	2.73	1.11	42	3.1	1.25	39	3.1	1.17
			F=3.83*			F=2.09			F=6.62**

+ $p < .10$, * $p < .05$, ** $p < .01$, *** $p < .001$

standardize case processing routines, thereby promoting greater accuracy, objectivity, and fairness in the administration of juvenile justice. To determine whether these effects have been obtained, we asked professionals to indicate whether or not the introduction of SDM has contributed to the realization of six

potential goals. The goals we considered are: 1) placing fewer juveniles in residential institutions, 2) producing more consistent placement decisions, 3) producing appropriate placement decisions, 4) increasing decision maker accountability, 5) preventing disparities in case processing (i.e. race or gender-based) and, lastly, 6) reserving institutional commitment for serious offenders.

As shown in Table 8.6, a majority of professionals in the full sample indicated that SDM did not produce any of these effects. While significant proportions agreed that SDM facilitated the placement of fewer juveniles in institutions (45 percent agreed), reserved institutional placement for serious offenders (41 percent agreed), and produced more appropriate decisions (40 percent agreed), in no case did a majority of decision makers in the full sample agree that a particular goal had been achieved. Furthermore, professionals were extremely skeptical of the effect SDM has had on producing more consistent placement decisions (30 percent agreed) and preventing disparities in case processing (20 percent agreed).

Professionals varied in their orientations toward goal achievement according to their state context, court size, and occupational roles (see Table 8.6). First, significant state-based differences were observed in orientations toward SDM and the goals of appropriate placement and reserving institutionalization for serious offenders. Indiana professionals were significantly more likely to confirm the achievement of both goals than professionals in other states. In fact, while a majority of Indiana professionals agreed that SDM contributed to the achievement of these objectives, professionals in other states expressed agreement at levels either comparable to or below the overall sample rates ($p < .05$).

There were also relatively high levels of agreement in Indiana and Michigan that SDM facilitated the placement of fewer juveniles in institutions, and a majority of Indiana professionals suggested that SDM promoted consistency in decision making. Though not statistically significant at conventional levels, it is also noteworthy that while professionals were generally disinclined to agree that SDM promoted either greater decision maker accountability or the prevention of disparity, respondents in Indiana and Michigan were once again more likely than others to suggest that SDM produced these effects ($p < .10$).

Court size was strongly related to orientations toward SDM and the achievement of specific goals. Decision makers in Metro courts were consistently less likely than their Mid and Non-Metro court counterparts to indicate that SDM contributed to the realization of these objectives. These differences were highly significant in relation to the goals of placing fewer juveniles in institutions, producing appropriate placement decisions, and reserving commitment for serious offenders ($p < .01$). In each case, a majority of professionals in Metro courts indicated that the outcome had not been achieved, and a majority of professionals in Mid and Non-Metro courts suggested that SDM had contributed to the

realization of the objective. Clearly, the SDM innovation has been experienced and applied rather differently in Metro and Mid/Non-Metro court contexts.

Finally, occupational role was related to one interesting difference in professional orientations toward the outcome of SDM implementation. Neither judges nor probation officers believed, for the most part, that SDM increased decision maker accountability, however, probation officers were significantly more inclined than judges to suggest that the innovation had this effect ($p < .01$). While it is difficult to interpret the meaning of this finding, given the complexity of the issue and our necessarily simplistic measure, it is possible that probation officers have a greater vantage point and/or "objective" perspective on the impact of SDM on decision maker accountability. This could be because probation officers are

Table 8.6: Structured Decision Making and Goal Achievement

			N	%	N	%	N	%	N	%	N	%	N	%
Full Sample	Yes		153	45.1	96	29.6	135	40.2	114	35.2	63	19.7	137	41.4
	No		186	54.9	228	70.4	201	59.8	210	64.8	257	80.3	194	58.6
	Total		339	100	324	100	336	100	324	100	320	100	331	100
State	Michigan	Yes	30	53.6	20	39.2	18	31.6	22	41.5	13	27.7	26	46.4
		No	26	46.4	31	60.8	39	68.4	31	58.5	34	72.3	30	53.6
	Illinois	Yes	60	41.7	35	24.3	51	35.4	48	34.3	24	17	50	35.2
		No	84	58.3	109	75.7	93	64.6	92	65.7	117	83	92	64.8
	Ohio	Yes	33	38.8	36	43.9	36	43.9	20	25.6	11	13.8	29	36.7
		No	52	61.2	46	56.1	46	56.1	58	74.4	69	86.3	50	63.3
	Indiana	Yes	30	55.6	30	56.6	30	56.6	24	45.3	15	28.8	32	59.3
		No	24	44.4	23	43.4	23	43.4	29	54.7	37	71.2	22	40.7
	$\chi^2(df)$			6.04(3)		4.88(3)		9.53(3)		6.46(3)		7.07(3)		10.64(3)
	Sig. (2-Tailed)			.109		.181		.023		.091		.070		.014
N			339		324		336		324		320		331	
Size	Metro	Yes	106	40.5	70	27.9	91	35.3	84	34	46	18.8	95	37.3
		No	156	59.5	181	72.1	167	64.7	163	66	199	81.2	160	62.7
	Mid/Non-Metro	Yes	47	61.0	26	35.6	44	56.4	30	39.0	17	22.7	42	55.3
		No	30	39.0	47	64.4	34	43.6	47	61.0	58	77.3	34	44.7
	$\chi^2(df)$			10.18(1)		1.62(1)		11.14(1)		.63(1)		.55(1)		7.83(1)
	Sig. (2-Tailed)			.001		.203		.001		.427		.458		.005
N			339		324		336		324		320		331	
Type	Judge	Yes	12	42.9	8	33.3	10	35.7	5	21.7	5	20	10	38.5
		No	16	57.1	16	66.7	18	64.3	18	78.3	20	80	16	61.5
	Probation	Yes	141	45.3	88	29.3	125	40.6	109	36.2	58	19.7	127	41.6
		No	170	54.7	212	70.7	183	59.4	192	63.8	237	80.3	178	58.4
	$\chi^2(df)$.064(2)		.171(2)		.253(2)		12.387(2)		.002(2)		.100(2)
	Sig. (2-Tailed)			.845		.649		.690		.002		1.000		.837
N			339		324		336		324		320		331	

most intimately involved in the actual use of SDM instruments, and this proximity may allow them to better observe how this innovation rationalizes and standardizes case processing routines. Moreover, given that judges stand to lose more discretionary power than probation officers in courts employing SDM, it is also possible that probation officers are less reluctant than judges to attribute this value to the innovation. In other words, judges may understandably be less inclined to indicate that SDM promotes decision maker accountability for the simple reason that this implies that they, themselves, are being held to a higher standard of accountability.

GENDER AND STRUCTURED DECISION MAKING

It has become clear to many practitioners and researchers that most existing instruments and procedures utilized in SDM are inappropriate for females because female crime is substantially different from that of males. Family and family relationships are often the center of most female juvenile crime so risk and needs characteristics vary for females, and disposition alternatives are far fewer for females than males (Belknap, 1997; Ereth and Healy, 1997; Robinson and Gilfus, 1991; Shaw and Hannah-Moffat, 2001; Chesney-Lind, 1997; Brennan, 1997; Pimlott and Sarri, 2001; Portland-School District, 1999).

Critiques of existing procedures and instruments include:

- Failure to recognize the differential significance of gender and family involvement;
- Lack of attention to the broader context of women's lives;
- Higher rates of abuse and mental illness for females vs. males; and
- Lack of appropriate disposition alternatives to address female needs.

Criminal behavior of adolescent females is less likely to involve violence but includes higher rates of status offenses (truancy, running away, incorrigibility, etc.), substance abuse, theft and domestic violence. Instruments that have been developed for females emphasize the critical importance of the assessment of needs and resources because families more often reject responsibility for females and because juvenile females are more likely to have children of their own for whom they are responsible.

Assessment of the impact of severe physical and sexual abuse has not been given sufficient attention, despite the fact that increasing percentages of young women entering the justice system report extensive abuse that is often related to their mental health and delinquency (Phillips and Sarri, 2001; Earls and Obedeillah, 1999) Their needs for medical and psychiatric services are substantial but are seldom available in the justice system. Shaw and Hannah-Moffat (2001) point to the need to consider minority status as well as gender, because females of color are more overrepresented than are males in the justice

system. They also critique the reliance on actuarial methods directed only to predict risk and recidivism because they require very large data sets for the establishment of valid, reliable objective criteria. Adolescent females represent about 26 percent of the juvenile justice population, so most jurisdictions do not have sufficient numbers for actuarial methods. These methods include "static risk factors," those which cannot be change but predict reoffending. Needs factors include those amenable to treatment, such as substance abuse (Andrews et al.,1990).

Females react very differently to institutionalization, as Kruttschnitt, Gartner, and Miller (2000) and Morash et al. (1998) have noted, so it may be more debilitating later in the young women's lives when they assume adult female roles. Canada has developed a model of a "women-centered" prison, and it has been piloted in Minnesota where gender-specific factors are incorporated into their classification procedures. These programs are directed toward the achievement of specific goals during incarceration that are related to gender-specific role requirements in society. Shaw and Hannah-Moffat (2001) further argue that the underlying assumptions of risk and classification must be questioned for females, as well as for males, and for persons of color.

Another key difference between male and female juvenile offenders is the system's reaction to status offenses, especially truancy, incorrigibility and running away. Parents are often implicated in that they may refer their daughters to court for the latter behavior when they would not do so for males, and they may request that the court intervene and remove the young woman from the community. In most courts, half or more of the females admitted to juvenile court are charged with status offenses, and a high percentage end up in out-of-home placements because of parental rejection and lack of community-based alternatives.

Because there still are smaller numbers of females than males in the system, far less attention has been devoted to structured decision making that is gender sensitive. Needed is pilot testing and validation based on studies of a sample of all adolescent females along with a sample of at-risk juveniles so as to identify the significant variables that predict delinquency. Too often, instruments are developed using only male detainees but such samples are limited in their validity and reliability. The research of Loeber and his associates (1999) documents the importance of social class as a stronger predictive variable for serious delinquency and recidivism than individual psychological characteristics.

All of these factors have led several communities to develop alternate instruments and procedures, but, up to the present, only Cook County, Illinois and Portland, Oregon have developed and utilized SDM instruments designed for adolescent females. Robinson and Gilfus (1991) have developed and utilized a risk and needs assessment instrument for adult women in Idaho for a decade. Their experience highlights the potential for gender-sensitive decision making for determining disposition alternatives and intervention approaches if recidivism is to be reduced. The Cook County, Illinois model

instrument focuses on balanced and restorative justice as an underlying theoretical framework (NCCD, 1999). It has three goals:

1. The focus of accountability is on the victim and the community requiring the female to make amends for her crimes by restoring losses to her victims and the community. In turn, the community shares responsibility for the conditions that may have led to the delinquent behavior.
2. The focus of the protection goals is the community so that neighborhoods become better places in which to live.
3. The rehabilitation goal asserts that the young woman and her family are clients so the justice system is obligated to ensure that when young women leave they are more productive and responsible members of the community.

The use of a restorative framework as a construct for SDM represents a very different approach than those that are presently in use in most states, and one of its principal advantages is that it directs attention to change and incorporates the family and the community directly. As Praxis (1996) notes, mutual responsibility and community strength are the ultimate outcomes for interventions. Of course, it is important to assess the impact of gender for males as well. As Naffine (1997) has argued, failure to attend to significance of gender limits theories and understandings of men and boys as much as those of women and girls.

STRUCTURED DECISION MAKING IN ADULT COURT TRANSFERS: A CHALLENGE FOR FUTURE RESEARCH

While it is critically important to consider the relationship between structured decision making, waiver, and accountability-based sanctions, that area of decision making has become a topic beyond the scope of this chapter. This is not because there are too many approaches to consider, indeed, we know of no state or county using SDM to guide the use of this extreme sanction. In the past decade, many states have substantially amended the laws governing the waiver or transfer of youth to adult court (see Chapter 3). These amendments typically lower the age at which a juvenile can be tried as an adult and create new procedural methods for transferring cases. In Michigan, for example, the legislature recently amended its juvenile code to eliminate any lower age limit for which a juvenile could be tried as an adult (previously 13 years old) and designated certain offenses for "automatic transfer" to the adult court. Led by Florida, other states have shifted the discretion in juvenile transfer decisions from judges to prosecutors allowing the latter to (direct) file certain juvenile cases in the adult court at the outset (U.S. Government

Accounting Office, 1995; Houghatlin and Mays, 1991). A recent evaluation of this policy in Florida revealed the startling and disturbing finding that, in 1995 alone, "Florida prosecutors sent 7,000 cases to adult court nearly matching the number of cases [9,700] judges sent to the criminal justice system nationwide that year" (Schiraldi and Zeidenberg, 1999, p. 1).

More recently, the implementation of a statutory provision in Illinois resulted in the arrest and adult trial of more than 300 youth for selling drugs near a housing project or school (Building Blocks for Youth, 2001). There was no limitation as to prior record or amount sold. These youth were 90 percent minority. Subsequently, most of the cases were dismissed at trial, but the Illinois law provides that once tried as an adult, future crimes will also result in adult trial. Obviously in such instances SDM procedures would be wholly ineffective.

Based upon the increase in the use and reach of juvenile waiver policy, determining how waiver decisions are made is vital to the implementation of an accountability-based system (Fagan, Frost and Vivona, 1987). While the waiver mechanism was originally intended to be a "just desserts" approach to handling serious person offenses committed by juveniles, researchers have found that an increasing proportion of juvenile cases transferred to adult court involve property and drug offenses (Bishop et al., 1996). As decision makers gain more discretion in the transfer of cases, the likelihood that these sanctions will be used inconsistently increases greatly. For obvious reasons, including the well-established fact that rates of recidivism are higher for youth handled in the adult system, the inconsistent use of this sanction is neither in the best interest of individual youth nor of society at large.

While there has been almost no attention in the research literature to the role of SDM in waiver cases and its capacity to ensure greater accountability, there is a clear need to consider the issue. The American Bar Association has recognized the need and recently published an article recommending "Expert Evaluations of Juveniles at Risk of Adult Sentences." The author emphasizes that, "With more juveniles facing long adult sentences, it is more important than ever that courts recognize the offense does not make the juvenile an adult." The article recommends that "a thorough developmental assessment" be conducted as soon as possible when children commit offenses for which they may be treated as an adult. Assessments should focus on cognitive, moral and identity development, childhood trauma, and the relationship between maturity and competence. Ideally, this assessment information would be used by prosecutors deciding whether to recommend transferring (or to directly transfer) the case as well as during actual transfer/waiver hearings, trials, and disposition/sentencing hearings. The author suggests that a developmentally-based structured decision making procedure may significantly aid the court in finding "a balance between fostering maturation, punishment, and protecting the community that fits each juvenile [at risk of adult sanctions]" (Beyer, 1999)

CONCLUSION

Structured decision making is not widely utilized in juvenile justice today, although it was instituted with the assumption that it was a technique for rationalizing decision making to insure equity as well as accountability in sanctioning, and also the rehabilitation of juvenile offenders. Almost nowhere did we find it utilized in disposition decision making, but only for determination of who is to be detained at intake and for probation or institutional management. Respondents, particularly judges, viewed SDM as valuable and reported utilizing the information, but it is probably utilized as one factor to be considered in decision making, not the critical factor. Testing its effectiveness in sanctioning is increasingly difficult because states have passed very detailed laws that prescribe exactly what is to be done with offenders for each of a large variety of offenses.

The review of research indicates that there are important issues surrounding validation to be resolved if instruments will be predictive of future behavior. Although desirable where there is a sufficient volume of cases, actuarial methods appear seldom to have been tried. Most of the research focuses only on individual risk behavior with insufficient attention given to needs, resources or strengths. The research of Loeber and his associates (1999) documents the importance of social class and family income as stronger predictive variables for serious delinquency and recidivism than are individual socio-psychological characteristics. Their research also brings into question the whole methodology of developing SDM instruments on adjudicated delinquent populations (most often residential populations) rather than using a random sample of the total youth population in a community. The latter approach would produce a more reliable and valid instrument for ascertaining risks, needs, and resources.

There is a need for achieving greater use of SDM procedures and instruments for greater fairness, equity, and effective decision making that will address accountability of the individual, the justice system, and the community. Much needs to be changed in existing law as well as in the practices of court actors if these results are to be realized.

CHAPTER 9

THE ACCOUNTABILITY IDEAL IN JUVENILE JUSTICE ADMINISTRATION

The ideal of “accountability” has become increasingly popular in American society during the past two decades and continues to find expression in wide ranging public discourse and policy. The concept generally stresses the responsibility of social actors and institutions to serve the expressed or presumed interests of loosely defined communities – victims, at-risk populations, and the public at large – while also referring to an awaiting sanction should an individual or group of actors fail to honor this social contract. Thus, to be “held accountable” is to be subjected to an explicit process of regulation. The popularity of this construct extends largely from its common-sense promise. At an individual level, the ideal emphasizes personal responsibility, where being held accountable is to be made answerable for one’s behavior. At a social-organizational level, the ideal of accountability invokes coherent standards, administrative efficiency and fairness in the regulation of these standards, swift and decisive action in the event of their violation, and, finally, the prospect of positive change. At the community level, accountability invokes positive environmental conditions such as prevention of the following: poverty, availability of drugs, crime and poor law enforcement. For the community to be accountable to its citizens, especially children, implies that the conditions are supportive of positive well-being. Hawkins and Catalano (1992) have identified community-level variables to be considered: availability of drugs and firearms, community laws and norms favorable to drug use and crime, media portrayals of violence, transitions and mobility, low neighborhood attachment and community disorganization, and extreme economic deprivation.

At its idyllic extreme, the trope of accountability posits a scenario where incompetence, ineffectiveness, corruption, criminality, and other undesirable social occurrences might be identified, subjected to intervention, and ultimately eliminated. The accountability ideal envisions an era of remarkable performance, diligent oversight, and real consequences for personal and administrative conduct in a broad range of fields including education, criminal justice, and government. As such, the ideal has considerable appeal for diverse constituencies. Public officials, for example, may be drawn to its prioritization of clear standards and potential assistance in organizing and monitoring the productivity of subordinate institutions, agencies, and workers. Given the racially disproportionate representation among crime victims, racial minorities and the poor might be more inclined to identify with the organizing principle of accountability on the bases of retributive interests. They might also support the ideal on the grounds of their interest in promoting fairness in justice administration (Kennedy, 1997; 2000).

In light of its prominence and promise, specifically in the context of the juvenile court, it is important for social researchers to examine the ascendance and application of this ideal. This chapter reviews the origins and mutations of the accountability ideal in the context of the American juvenile justice system. Focusing on major legislative and policy changes since the 1960s, the chapter explores the emergence and institutionalization of this ideal in juvenile justice administration, noting the gradual displacement of the traditional rehabilitative ideal with an initially liberal and rights-based but increasingly conservative and punitive ideal of accountability. Subsequently, in an effort to expand the growing body of empirical literature on the accountability ideal in juvenile justice, findings from a survey of decision makers in twelve Midwestern juvenile courts are presented. Similar to previous research, this analysis raises important questions about the conceptual clarity and practicality of this organizational principle for juvenile justice administration.

This chapter is organized in four sections. In the first section, attention is given to the ascendance and transformation of the accountability ideal in juvenile justice administration. The second section reviews existing research literature on the application of the accountability ideal in juvenile justice, finding various challenges to the philosophical basis and organizational viability of this new principle. The third section presents findings from an empirical analysis of the accountability ideal in twelve contemporary juvenile court communities. The fourth section summarizes this investigation of the accountability ideal in juvenile justice administration and considers implications for future policy and research.

IDEALS OF ACCOUNTABILITY IN JUVENILE JUSTICE

Founded at the start of the twentieth century, the juvenile court was intended to be the cornerstone of a rehabilitative justice system for youthful offenders who, prior to then, were less systematically differentiated from adults in the practice of criminal social control. The establishment and national diffusion of the juvenile court model set into motion the development of a distinct institution called juvenile justice, where child welfare and social control were blended under an organizational banner of rehabilitation. As Howell (1997) has noted, the growth of this institution was largely uncurtailed for the first half of the twentieth century.¹

¹ There were, however, important criticisms of juvenile justice administration and the application of the rehabilitative ideal throughout this period. For example, black clubwomen, the NAACP, and researchers (i.e. Sanders, 1933) were critical of the juvenile justice system's denial of rehabilitative services to black delinquents, especially in the South. Also, while blocked by the Governor's veto, the Illinois legislature voted to abolish its juvenile court system in 1912. Citizens responded with a, "public campaign in which critics charged probation

Eventually, criticism of the rehabilitative ideal began to emerge and gain force. Fueled by a number of studies revealing administrative problems and, more importantly, high recidivism rates among “treated” juveniles, this critique sent juvenile justice into a philosophical and organizational tailspin (Allen, 1981). A review of this original opposition and its mutations over the past half century suggests that the redefinition of juvenile justice has revolved and settled, albeit tenuously, on an ideal of accountability. Furthermore, while recent discussions and legislation addressing accountability in juvenile justice administration emphasize the importance of holding offenders “accountable,” it appears that this ideal originally found expression – both philosophically and organizationally – in the context of system accountability (Armstrong and Altschuler, 1982; Forst and Elin-Bloomquist, 1992; Fox, 1996).

Accountability and the “Best Interests” of Juveniles: The Early Liberal Approach

The displacement of the rehabilitative ideal was precipitated by a sense that, its cultural appeal and the proliferation of institutions notwithstanding, the rehabilitative ideal had scarcely been realized in a half century of juvenile justice practice. Critics were skeptical of the rehabilitative treatment offered in various institutions, viewing many as custodial and punitive in all but their official descriptions. There was little confidence that even the best of these programs were successfully rehabilitating youthful offenders and noticeably impacting the problem of delinquency. As Olson-Raymer (1993) has noted, “in addition to questioning the juvenile court’s performance, critics also objected to the *parens patriae* doctrine which provided the rationale for the court’s broad jurisdiction”(p. 499).

Declining confidence in the rehabilitative ideal thus weakened the philosophical and organizational credibility of the juvenile justice system, leading to demands that the system take greater responsibility for its extraordinary authority and power. In particular, the system was charged with installing greater safeguards against abuse (i.e. due process protections) and with limiting its scope in the handling of troubled youth (i.e. decriminalizing status offenders and developing community-based alternatives to state intervention). It is in this context that the concept of accountability first emerged to challenge traditional philosophical and organizational aspects of juvenile justice administration.

One of the earliest expressions of this impending transformation was a series of Supreme Court decisions challenging the autonomy of juvenile justice administrators. In several cases, the Supreme Court ruled that youthful offenders subject to institutionalization required greater protection of their

officers with carelessness and neglect” (Olson-Raymer, 1993, p. 497). Notwithstanding these attacks, the juvenile justice system remained largely intact through the first half of the twentieth-century.

constitutional rights to due process. Beginning in 1966 with *Kent v. United States*,² and shortly thereafter with *In re Gault*,³ *In re Winship*,⁴ and *Breed v. Jones*,⁵ the Supreme Court rejected the claim that due process protections were unnecessary and counterproductive within a non-adversarial and non-punitive context of justice administration. In a climate of decreasing institutional legitimacy and more general appeals within ongoing civil rights struggles for the extension and enforcement of democratic principles, the court ruled that administrators of juvenile justice should be held to a higher standard of procedural formality. In the decade between 1966 and 1975, Supreme Court decisions granted several due process protections to youthful offenders in juvenile court proceedings including the right to a formal hearing, legal representation, the cross-examination of witnesses, protection against self-incrimination, and a higher burden of proof on the state (Siegel and Senna, 1997, pp. 40-52). While these rulings did not in and of themselves challenge the goal of rehabilitation, they significantly altered the traditional and constructively vague procedural underpinnings of this original ideal. Juvenile justice systems were now required to formalize their court proceedings and extend due process protections provided in the U.S. Constitution to the delinquents they intended to reform. At least to some extent, as Rossum et al. (1987) observe, these “[extensions of] due process rights to juveniles can be understood as attempts to establish system accountability” (p. 12).

Retreating faith in the rehabilitative ideal became evident in still other criticisms and procedural reforms again presented as representing “the best interests” of juveniles. Beginning in the 1960s, liberal critics questioned the appropriateness of justifying confinement on an ambiguous and apparently unsuccessful goal of “rehabilitation,” when empirical evidence pointed to punitive and abusive practices, high rates of recidivism, and a positive relationship between prior institutionalization and both the chronicity and severity of subsequent delinquent behavior. These challenges came to a head in the President’s Commission on Law Enforcement and Administration of Justice report entitled *The Challenge of Crime in a Free Society* (1967). The Commission boldly concluded that, “the great hopes held for the juvenile court have not been fulfilled. It has not succeeded in rehabilitating delinquent youth, in reducing or even stemming the tide of delinquency, or in bringing justice and compassion to the juvenile offender” (pp. 16-17). Furthermore, as Armstrong and Altschuler (1982) point out, the findings and recommendations of this commission “were largely responsible for the wave of reform efforts which swept across local jurisdictions throughout the United States by 1970” (p. 17). The Commission’s recommendations were intended to shore up the most glaring weaknesses and promote greater fairness in

² *Kent v. United States*, 383 U.S. 541 (1966).

³ *In re Gault*, 387 U.S. 1 (1967).

⁴ *In re Winship*, 397 U.S. 358 (1970).

⁵ *Reed v. Jones*, 421 U.S. 519 (1975).

the administration of juvenile justice. Left unchecked, the Commission concluded, the rehabilitative ideal led to excessive reliance on a "reformatory" model of intervention and the "warehousing" of increasing numbers of delinquents in institutions scarcely distinguishable from adult jails and prisons.

Challenging states to develop more effective and responsible models of juvenile justice administration in the interests of both the general public and youth under their supervision, the Commission recommended decriminalization, due process, deinstitutionalization, and diversion reforms (Armstrong and Altschuler, 1982, pp. 17-8). While each recommendation targeted a particular phase of juvenile justice administration, they collectively symbolized an effort to protect the constitutional rights and developmental needs of young offenders by demanding improved institutional performance. The Commission essentially ruled that the juvenile court was not what might today be described as "accountable to children." Specifically, the reforms were based on a premise that citizenship protects children from such treatment and that greater "due process" protections, along with other reforms limiting state authority, would promote these rights. Critics were unopposed to the rehabilitative ideal, and their interventions were meant to protect children from the harmful impact of neglect and abuse by the parental state, steering them toward what were considered more promising rehabilitative options (Sarri, 1971; Vinter and Sarri, 1976).

The Discursive Shift: From Institutional to Individual Accountability

In an increasingly conservative late twentieth century America, the push for accountability in the administration of juvenile justice was overcome by a profound ideological shift. By the 1980s, a new and more direct wave of "accountability" advocates challenged the rehabilitative ideal based on a radical reorientation toward juvenile justice in particular and social services in general. Like clients of other social welfare programs, juveniles found a state unwilling to keep old promises of aid and eventually a court with fewer concessions for youthful offenders of the criminal law. While the emergence of the accountability ideal appears to have been triggered by opposition to the procedural organization of an "unaccountable" juvenile justice system, its eventual displacement of the rehabilitative ideal was ensured by a more conservative definition of accountability. In its modern application, advocates have called for holding children and adolescents more "responsible" for their behavior and for reforms diminishing the distance between adult and juvenile justice administration. This accountability ideal draws heavily from the philosophy of "just desserts." According to the Office of Juvenile Justice and Delinquency Prevention,

Holding a juvenile offender 'accountable' in the juvenile justice system means that once the juvenile is determined to have committed law-violating behavior, by admission or adjudication, he or she is held responsible for the act through consequences or sanctions, imposed pursuant to law, that are proportionate to the offense (Griffin, 1999, p.1).

This post-1980 accountability ideal grew in the wake of real but somewhat exaggerated increases in the volume and seriousness of juvenile crime, behaviors based largely on the intersection of guns, drugs, and poverty in the lives of youth in late twentieth century American communities. Emerging in the late 1970s and growing since, this new ideology appeals to the desires of a "general public" and the protection of law-abiding citizens from the predations of "excessively coddled" and "criminal" children. In what one observer has described as the "Willie Hortonization" of juvenile justice, images of a dangerous and depraved, urban and drug addicted, parent-less and amoral, desperate, and "adult-like" child have been central to this reinterpretation of the accountability ideal (Feld, 2000). On this new ideological terrain, the "outsider" labeled delinquent is no longer merely "wayward" or poorly socialized and thus in need of resocialization (i.e. rehabilitation), he or she is potentially, if not fundamentally, dangerous. Consequently, the offender-based accountability ideal shifts emphasis from prevention and treatment to control and punishment.

Setting the question of rehabilitative potential aside, more conservative advocates of this new accountability ideal argue that many youthful offenders are not only incorrigible and thus inappropriate for costly delinquency services, but are undeserving of this child welfare initiative. The case of Michigan presents an example of this perspective. In a fashion characteristic of the new turn in juvenile justice administration and reminiscent of earlier trends in characterizations of the poor, Michigan's governor has drawn a hard line between deserving and undeserving children.

As a society, we need to make sure our young people are learning what it means to be responsible. Unfortunately, through no fault of their own, some of Michigan's children are having a tough time of it...[and] are at risk even at home. Unfortunately, there are other young people who put the rest of us at risk. They have no concept of personal responsibility, and no compunction about preying on others. Our message to these thugs and punks must be unambiguous. They not only forfeit their childhood; they forfeit their right to privacy and special treatment (Engler, State of the State Address, 1995).

The Governor also promised, "No longer will acts of 'youthful indiscretion' be erased from their records, while leaving permanent scars on their victims. The public is demanding – and I concur – that young punks be treated as adults" (Engler, 1995b) and has suggested that "we must be prepared to protect the public from predatory punks who kill without remorse, take without regret and lie without regard for

anyone but themselves" (Engler, 1995b). To this end, Michigan's governor successfully lobbied for construction of Michigan's first maximum-security "Punk Prison" (as he calls it), a privately-operated facility for serious youthful offenders which opened in 1999, and he has signed a 21-bill package to reform juvenile justice administration in the state, making Michigan's juvenile justice system one of the most punitive in the country. These reforms are intended to make "responsibility, deterrence, accountability and punishment basic components of Michigan's juvenile justice system" (Engler, 1995b).

The new offender-based accountability ideal has enjoyed support from influential advocates. In 1985, for example, the administrator of the Office of Juvenile Justice and Delinquency Prevention published an article thoroughly representative of this new thrust entitled, "Getting Away With Murder: Why the Juvenile Justice System Needs an Overhaul." In this article, Regnery (1985) proposed that

[t]he juvenile justice system, which is supposed to act only in the 'best interest of the child,' serves neither the child, his [sic] victim, nor society. Juvenile crime rates since the 1950s have tripled, yet the theories and policies we use to deal with such crime fail to hold offenders accountable and do not deter crime. At best, they are outdated; at worst, they are a total failure, and may even abet the crimes that are supposed to prevent (p. 65).

Frequently referring to youthful offenders as criminals, Regnery subverts traditional goals of protecting delinquents from stigmatizing labels and procedures of social control. This leader in juvenile justice administration went on to offer several policy recommendations, including a reduction of "the traditional distinction between juveniles and adults [since] criminals should be treated as criminals." In his view, there was "no reason that society should be more lenient with a 16-year-old first offender than a 30-year-old first offender" (Regnery, 1985, p. 68). Despite its extreme departure from the most fundamental juvenile justice principle, the differentiation of crimes committed by adults and youth, this is hardly a sensational case.

Similar and even more reactionary arguments can be found in a number of academic, professional, and popular publications appearing in the 1980s and 90s. One "expert" forecasted that a "teenage [crime] time bomb" was prepared to explode and that, without taking evasive action which included more punitive policies, we should expect waves of juvenile "super predators flooding the nation's streets" (Dilulio, Jr. 1996, p. 25; cited in Howell, 1997, p. 47). Some polling research suggests that the general public is in agreement that the traditional rehabilitative ideal has limited value in a modern juvenile justice system. In 1993, a poll by *USA Today*, CNN, and Gallup found widespread support for more punitive juvenile justice policies, as seventy-three percent of adults surveyed were in favor of treating juveniles who commit violent crimes the same as adults (Howell, 1997, p. 47). Meanwhile, more recent polls reveal that retributive accountability reforms may have reduced the

distinction between juvenile and adult offenders far more than the public desired (Schiraldi and Soler, 1998).

There is much at stake in our present turn toward criminalizing juvenile offenders and, in Governor Engler's words, the forfeiture of childhood in the case of delinquents. While the accountability ideal does not necessarily entail such a radical transformation, there are unambiguous currents in this direction. In the remainder of the chapter, attention is turned to empirical research on the accountability ideal in juvenile justice administration. It is hoped that reviewing this literature sheds light on the nature and significance of recent accountability-based reforms and contextualizes the present research on how juvenile justice decision makers understand this ideal.

EVALUATING THE ACCOUNTABILITY IDEAL: A REVIEW OF THE RESEARCH LITERATURE

Several state legislatures have revised the purpose clauses of their juvenile justice statutes to include greater emphasis on offender accountability, often by displacing the traditional focus on "the best interest of the child" with language emphasizing justice, punishment, and the promotion of public safety (Forst and Elin-Blomquist, 1992, p. 2). The small academic literature on accountability in juvenile justice administration emphasizes the popularity of the accountability ideal, its definitional and philosophical inconsistencies, and practical challenges for institutionalizing the ideal. This section provides a brief review of this research.

Prominence of the Accountability Ideal

Washington became the first state to promote this ideal when legislators in that state passed the Juvenile Justice Act of 1977. The act was intended to "provide punishment commensurate with the age, crime, and criminal history of the juvenile offender," and thus "make the juvenile offender accountable for his or her criminal behavior." In their review of changes in state legislation defining the purpose of juvenile justice, Elin-Blomquist and Forst (1993) found that, "while the emerging terminology has been diverse, ...an interest in treating youths as responsible actors can be discerned as a unifying theme of the reformed juvenile codes" (p. 42). For example, the California legislature revised the purpose clause of its juvenile justice statute in 1984 to require that:

[I]n conformity with the interests of public safety and protection, [juvenile offenders shall] receive care, treatment and guidance which is consistent with their best interest, which holds them accountable for their behavior, and which is appropriate for their circumstances. This

guidance may include punishment that is consistent with the rehabilitative objectives of the [juvenile court] (Forst and Elin-Blomquist, 1992, p. 31).

Interestingly, while California's revised statute specifies that punishment cannot be retributive in purpose and design, this restriction is not evident in other states (Elin-Blomquist and Forst, 1993, p. 3). Such inconsistency across states is emblematic of the problems researchers have observed in their evaluations of the accountability ideal in juvenile justice.

Definitions and Philosophical Questions

Researchers have noted that the accountability ideal is often "couched in [several] broad (and ill-defined or conflicting) goals," questioning the definitional and philosophical clarity of this new organizing principle (Elin-Blomquist and Forst, 1993, p. 42). The accountability ideal does have several variants, unevenly marked by the idea of "just desserts," principles of "restorative justice," and lingering vestiges of the traditional rehabilitative ideal (Umbreit, 1995). Notwithstanding this variation, applications of the accountability ideal have borrowed most heavily from the fundamentally punitive "justice model." As Rossum (1995) observed, critics of the "juvenile injustice system" and its elusive rehabilitative ideal have mainly advocated that this informally organized and offender-based treatment model "be replaced with a formal, offense-oriented model based on the principles of accountability and proportionality" (p. 919).

This proportional justice model, also known as "just desserts," emerged most forcefully in a publication by Andrew von Hirsch entitled *Doing Justice* (1976). In this work, von Hirsch critiqued classic and ambitious utilitarian rationales of punishment – especially deterrence, incapacitation, and rehabilitation – recommending that these aims of "doing more good" through justice administration be replaced by a more modest and attainable goal of "doing justice" (Duff and Garland, 1994, p. 112). The primary organizing principle in von Hirsch's model is "proportionality," based mainly on offense factors, whereby the offender is punished to an extent that is commensurate with their present offense and the seriousness of their offense history (i.e. "just desserts"). While the justice model has philosophical and practical limitations, it can potentially appeal to liberal and conservative critics alike since, in theory, it "seeks to achieve the twin goals of holding juveniles individually responsible for their criminal misdeeds and holding the juvenile justice system accountable for its treatment of these juveniles" (Griffin, 1999, p. 2).

There are important inconsistencies remaining in the accountability ideal. As mentioned previously, advocates of the new accountability ideal often point to two recent developments: 1) the

apparent failure of the rehabilitative ideal to achieve its utilitarian ends and, in some cases, its failure to protect the constitutional rights of juvenile offenders, and 2) the apparent dramatic change in the nature of juvenile delinquency and, more specifically, the increasingly violent and serious nature of juvenile crime. However, neither observation adequately accounts for the redefinition of juvenile *culpability* that is central to this shift. In fact, in the traditional conceptualization of juvenile justice, the differentiation of children and youth charged with crimes from adults was not based primarily on the perceived differences in the seriousness of their offenses. While there may have been differences, the idea of juvenile justice grew more fundamentally from an understanding of childhood and adolescence as developmental stages marked by immaturity and, importantly, a "malleable" humanity that diminished with the onset of adulthood. Juveniles deserved leniency in criminal sanctions because they were distinctly "salvageable," not because they were petty criminals who posed no significant threat to public safety. We agree with other researchers that the apparent conflation of failure in the realization of the rehabilitative ideal on the one hand, something for which adults are at least partially responsible, and the appropriateness of accountability as a juvenile justice principle on the other hand, is troubling. It is problematic that shortcomings in the application of the rehabilitative ideal have been reinterpreted as the inability of children to change and, ultimately, a growing denial of their entitlement to do so.

The ideal of juvenile offender accountability also becomes morally problematic in a context where childhood and adulthood remain otherwise differentiated as developmental stages and thus social and legal statuses. As others have noted, our society continues to maintain other "age-graduated" legal policies and social regulations concerning, for example, as cited by Elin-Blomquist and Forst (1993), "full-time employment, driving a car, voting, joining the military, marrying, purchasing cigarettes, entering into contracts, holding public office, and purchasing alcoholic beverages" (p. 45). Additionally,

these policies recognize that teenagers are not fully responsible and mature actors or decisionmakers and that when they assume adult-like activities they are more likely to make mistakes and use inadequate judgment. Such regulations also work to protect young people from the full consequences of experimentation and mistakes as they acquire experiences and skills (Elin-Blomquist and Forst, 1993, p. 45).

Because there have not been more general legal and social-psychological departures from the principle that juveniles have a diminished capacity to face the challenges and stakes of adult responsibility, it is difficult to locate the cultural foundation of the new accountability ideal. While its political expediency is obvious, we share a previously articulated concern that by holding a juvenile fully responsible for their illegal behavior we dangerously undermine both "the values and assumptions that support the juvenile

justice system and age-based laws that govern society's expectations of young people" (Elin-Blomquist and Forst, 1993, pp. 45-6).

Practical Concerns

Finally, beyond these definitional and moral questions lie equally challenging practical issues in replacing the rehabilitative ideal with a principle of accountability. Successfully operationalizing an accountability ideal would require, at least, a formal and relatively unambiguous definition of accountability as well as some assurance that practitioners and administrators could apply this definition with some consistency in both case processing and organizational management decisions. We have already noted the finding in prior research that accountability is inconsistently defined across state contexts, and it is likely that similar inconsistencies exist within states (i.e. counties). Furthermore, as discussed further in the next section, a survey of decision makers in four states revealed that preferred definitions of "accountability" varied substantially by state and county (not presented), the type of practitioner (i.e. judge, prosecutor, probation officer, or defense attorney), and other respondent characteristics. Even assuming the existence of a coherent definition, institutionalizing accountability at the level of policy presents problems of its own. Previous research illustrates this point.

In a case study of California's juvenile justice system, Elin-Blomquist and Forst discovered a complex model of "accountability-based" sanctions intended to standardize case processing and promote the acceptance of responsibility in several ways. The system operationalized accountability by developing policies of determinate sentencing, instituting requirements that youth successfully complete prescribed programs, and, finally, establishing requirements that adjudicated delinquents "deal with their commitment offense" before being released (Elin-Blomquist and Forst, 1993). In theory, this was a comprehensive strategy for assuring proportionality in sentencing and the acceptance of responsibility. In practice, however, these new policies resulted mainly in the increased and often unwarranted reliance on institutionalization, as youth remained confined awaiting entry to often full but mandated treatment programs. The researchers further questioned the system accountability of this arrangement based on their finding that youth often failed to satisfy the "subjective and vague" requirement of dealing with their commitment offense. Apparently "if the [parole] board wanted to keep a youth confined for purposes of public protection through incapacitation" beyond what was provided by the original sentence, "the board merely claimed the youth's [coming to terms with their offense] lacked sufficient sincerity and continued confinement was warranted." These researchers concluded that "the operationalization of accountability...resulted in subjecting juveniles to higher standards of conduct and personal responsibility than are applied to adult felons" (Elin-Blomquist and Forst, 1993, pp. 34-40).

Other research raises additional questions about the prospects for *system* accountability in the administration of this modern ideal which, again, is integral to an appropriately “balanced” juvenile justice system (Guarino-Ghezzi and Loughran, 1996). As the Office of Juvenile Justice and Delinquency Prevention points out in their description of the accountability ideal, “a real commitment to meaningful, appropriate, flexible, and consistent sanctioning...imposes a whole new set of expectations and demands not only on the offender but also on the juvenile justice system.” In this connection, “the individuals and institutions that make up the juvenile justice system [should] never lose sight of their accountability to the public at large” (Griffin, 1999, p. 2). However, findings from a national survey of more than eight thousand juvenile justice professionals (including judges and attorneys, probation officers, police, criminologists and others) give cause to be somewhat skeptical of accountability-based system administration. Rossum (1995) found that, “while these respondents believe that juvenile crime is a serious problem, is becoming more serious, and is handled poorly, they resist change and insist on keeping intact the juvenile court’s informal, discretionary decision-making” (pp. 922-3). He continued,

Respondents as a group favor[ed] reforms fundamentally at odds with those sought by the Supreme Court in *Gault* and subsequent cases, in that they are more strongly offense-oriented than favorably disposed toward procedural formality.... Unlike the justices who sought to create a juvenile justice system that is informal and offender oriented, the respondents are willing to accept juvenile courts that are more offense-oriented, so long as their own discretion is preserved (Rossum, 1995, pp. 922-3).

The significant point here is that the justice model to which these decision makers apparently prescribe also contains a requirement of procedural formality, most notably in its emphasis on the proportionality between offenses and consequent sanctions. Rossum found that opposition to procedural formality was strongest among those categories of respondents most invested in the use of discretion during delinquency case processing – judges, attorneys, and probation/parole officers – and less likely among relatively more “objective” respondents (i.e. criminologists). “Put in the least flattering light,” Rossum concludes, the survey data suggest that juvenile justice practitioners “are more willing to hold juveniles responsible for their acts than they are to hold themselves accountable for what they do to these juveniles” (Rossum, 1995, p. 923).

More recently, the growth of the restorative justice movement and the proliferation of specialty courts (drug courts, teen courts, dispute resolution centers) has stimulated greater consideration of system and community accountability. Pranis (1998) discusses the three principles of restorative justice: (1) the justice system should attend to all of the broken relationships between the offender, the community, and the victim; (2) the community should be the leader in the resolution of the criminal incident; and, (3) the

philosophy of repairing harm and attending to victims should apply to all offenses. The rapid growth in a variety of restorative justice mechanisms during the past decade indicates recent acceptance of a much broader definition of accountability.

In summary, the research literature indicates that there is little consensus on the meaning of accountability, some contradiction in its philosophical underpinnings, and possibly a good deal of imbalance in its application to individual offenders and justice administration. Notwithstanding this evidence and the fact that the value of this ideal hinges largely on its coherent and balanced application, all signs indicate that accountability will continue to displace the traditional rehabilitative ideal in juvenile justice administration. Thus, as the accountability ideal moves closer to the ideological and organizational center of justice administration, it is imperative for researchers to critically examine how this principle finds expression in actual court communities. In the next section, findings from a survey of decision makers in twelve Midwestern juvenile courts are presented. It is hoped that by investigating how practitioners themselves understand the concept of accountability we can learn more about how it is applied in practice and, ultimately, further clarify the strengths and limitations of this emergent ideal.

THE DISTRIBUTION OF ACCOUNTABILITY IDEALS IN TWELVE JUVENILE COURTS

Drawing on the findings of previous research and on data from our survey of decision makers in twelve juvenile courts, this analysis has two objectives. First, we seek to determine how the concept of accountability is understood and defined by decision makers in juvenile justice administration. Also, in light of the tendency to emphasize individual accountability in juvenile justice rhetoric and policy, this analysis considers the extent to which system accountability is prioritized by juvenile justice decision makers.

Data

The analysis employs data from a self-administered survey of decision makers in twelve Midwestern juvenile courts. For a detailed description of the sample, please refer to Chapter 2.

Methods

The primary analysis strategy is a tabular presentation of frequencies for the full sample and for the sub-samples of judges, probation officers, prosecutors and defense counsel. In addition to the type of

decision maker, we are interested in how variations by gender, race, age, experience level, parental status, and educational attainment are related to our dependent variables of interest. Each of these measures were obtained through respondent self-reports. Two tests of statistical significance are used. Mean differences were analyzed using Analysis of Variance (ANOVA) and Pearson's Chi-Square is used to test the significance of frequency distributions between categorical variables of interest.

Measures

The analysis considers how decision makers identify with four competing definitions of accountability, conceptually grounded in ideals of rehabilitation, punishment, victim's rights, and social justice (see Appendix B3 for details). Specifically, respondents were asked to indicate on a scale of one to five how different or similar each definition of accountability was to their own. Next, respondents were asked to indicate which of the definitions should be applied in juvenile justice if only one could be used. Respondents were given the opportunity to provide their own definitions of accountability in the event that their views were not reflected in the definitions provided. Few exercised this option and several who did either indicated specifically that the definitions provided were appropriate or repeated elements of these definitions in their response. Taken together, these trends suggest that the hypothetical definitions provided clear and sufficiently comprehensive alternatives from which our respondents could select.

Additionally, respondents were asked to indicate how important minority overrepresentation was for decision makers in juvenile justice. In light of the federal mandate to address this problem, and the fact that minority overrepresentation is evident in each of the jurisdictions in our analysis, we use this item as a proxy of the respondent's support of system accountability. We asked respondents to indicate on a five-point scale how much they agree or disagree with the following statement: "minority overrepresentation is a serious problem facing juvenile justice decision makers."

Findings

Table 9.1 shows respondents were most supportive of the definition prioritizing system-accountability to the rehabilitation of youthful offenders. This was followed by support for definitions prioritizing fairness within the justice system, victim's rights, and just desserts. Larger margins of difference were observed in our respondents' identification of the most important operational definition of accountability (Table 9.2).

Table 9.1: Mean Identification with Accountability Definitions

Definition	Mean	Std. Deviation	N
Rehabilitation	3.84	0.97	645
Victim's Rights	3.55	1.05	648
Fairness	3.65	0.98	642
Punishment	3.11	1.14	644

When required to select the most important definition of accountability for juvenile justice (Table 9.2), forty-five percent chose the rehabilitative emphasis while substantially smaller proportions identified with basic fairness (20 percent) and victim's rights (22 percent). Fewer respondents prioritized holding offenders accountable through "just dessert" punishments (13 percent).

Table 9.2: Attitudes toward the Most Important Accountability Definition (in percent)

Definition	Percent	N
Rehabilitation	44	258
Victim's Rights	22	129
Fairness	20	119
Punishment	13	76
Total	100	582

Table 9.3: Agreement that Minority Overrepresentation is a Serious Problem

Level of Agreement	Percent	N
Strongly Agree	21.8	143
Agree	26.5	174
Neither Disagree nor Agree	29.7	195
Disagree	14.3	94
Strongly Disagree	7.6	50
Total	100	656

Finally, in the full sample, there was only partial support for the assertion that minority overrepresentation is a serious problem in juvenile justice administration (Table 9.3). Less than one-quarter of respondents strongly agreed, while slightly larger proportions agreed (26 percent) and indicated neither agreement nor disagreement (30 percent). Meanwhile, 15 percent of respondents disagreed with the statement and substantially fewer respondents strongly disagreed (8 percent).

To further understand how decision makers prioritize competing accountability ideals and the problem of minority overrepresentation, it is useful to isolate relevant subsamples and examine the extent of

statistically significant variation in their responses. We begin by considering how different types of decision makers relate to these issues. As shown in Table 9.4, defense attorneys were less likely than other types of decision makers to identify with the victim's rights definition of accountability. Probation officers and prosecutors were more likely than judges and defense attorneys to identify with the "just desserts" accountability definition. Prosecutors were also less likely than all other decision makers to identify with the rehabilitative definition. Finally, prosecutors were less likely than defense attorneys and judges, and judges more likely than probation officers and prosecutors, to identify with the fairness-based definition of accountability.

Table 9.4: Mean Identification with Accountability Definitions, by Occupational Role

Role (N)	Accountability Definition			
	Victim's Rights	Punishment	Rehabilitation	Fairness
Probation Officer (477)	3.57 ^a	3.23 ^a	3.86 ^a	3.61 ^{a,c}
Judge (76)	3.63 ^a	2.65 ^b	3.88 ^a	3.91 ^b
Prosecutor (30)	4.00 ^a	3.47 ^a	3.17 ^b	3.13 ^c
Defense Attorney (58)	2.84 ^b	2.36 ^b	4.09 ^a	3.98 ^{a,b}
F	11.42***	18.15***	6.26***	7.39***

*** $p < .001$

Note: Within columns, means with different superscripts are significantly different.

When asked to prioritize the most important definition of accountability (Table 9.5), the largest proportions of judges (36 percent), probation officers (45 percent), and defense attorneys (68 percent) prioritized rehabilitation, while more prosecutors (44 percent) emphasized victim's rights.

Table 9.5: Attitudes Toward the Most Important Accountability Definition, by Role (%)

Role (N)	Accountability Definition Most Important				Total
	Victim's Rights	Punishment	Rehabilitation	Fairness	
Probation Officer (426)	22	15	45	19	100
Judge (73)	28	6	36	29	100
Prosecutor (27)	44	30	11	15	100
Defense Attorney (56)	4	4	68	25	100

Chi-Square = 48.87 df = 9 ($p < .001$)

In light of these findings, and their relevance to distinctions between individual and system-level accountability, it is likely that decision makers also vary in their attitudes toward the seriousness of minority overrepresentation. As indicated in Table 9.6, there is considerable variation among types of

decision makers in attitudes toward this issue. By a wide margin, defense counsel (71 percent) are most inclined to strongly agree or agree that minority overrepresentation is a problem. Judges (43 percent) and probation officers (48 percent) are similar in their inclination to strongly agree or agree that minority overrepresentation is a serious problem. Yet, far fewer prosecutors (10 percent) expressed their agreement with this statement. Indeed, 17 percent of prosecutors strongly *disagreed* with the assertion that minority overrepresentation is a serious problem facing decision makers.

Table 9.6: Agreement that Minority Overrepresentation is a Serious Problem, by Role (%)

Role (N)	Level of Agreement					Total
	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree	
Probation Officer (490)	7	12	32	27	21	100
Judge (81)	10	19	25	28	19	100
Prosecutor (29)	17	45	28	7	3	100
Defense Attorney (56)	2	11	16	30	41	100

Chi-Square = 52.88 df = 12 ($p < .001$)

Gender differences were only marginally significant in our analysis. We found that women were similar to men in their support of rehabilitation and victim's rights, but significantly less inclined than men to identify with punishment and fairness-based definitions of accountability (Table 9.7). Gender was not significantly related to attitudes toward the "most important" accountability definition or the seriousness of minority overrepresentation.

Table 9.7: Mean Identification with Accountability Definitions, by Gender

Gender (N)	Accountability Definition			
	Victim's Rights	Punishment	Rehabilitation	Fairness
Male (314)	3.60	3.21	3.85	3.73
Female (296)	3.52	2.98	3.87	3.56
F	0.84	5.82*	0.06	4.69*

* $p < .05$

Race of decision maker was significantly related to each dependent variable of interest. First, African American decision makers were marginally more inclined to support the fairness-based accountability definition than were white and other non-black respondents (Table 9.8).

Table 9.8: Mean Identification with Accountability Definitions, by Race

Race (N)	Accountability Definition			
	Victim's Rights	Punishment	Rehabilitation	Fairness
White (359)	3.61	3.03	3.89	3.55 ^a
Black (128)	3.58	3.30	3.84	3.90 ^b
Other (58)	3.50	3.16	3.86	3.53 ^a
F	.295	2.726	.091	6.359**

** p < .01

Note: Within columns, means with different superscripts are significantly different.

Table 9.9: Attitudes Toward the Most Important Accountability Definition, by Race (%)

Race (N)	Accountability Definition Most Important				Total
	Victim's Rights	Punishment	Rehabilitation	Fairness	
White (343)	26	12	46	16	100
Black (106)	9	14	43	33	100
Other (51)	22	20	43	16	100

Chi-Square = 24.40 df = 6 (p < .001)

Differences by race were more pronounced in identifications of the most important accountability ideal (Table 9.9). The majority in each category of respondents defined rehabilitation as most important, however, while the largest proportion of remaining white (24 percent) and "other" (22) respondents prioritized victim's rights, an even larger proportion of remaining African Americans (32 percent) prioritized fairness.

Table 9.10: Agreement that Minority Overrepresentation is Serious Problem, by Race (%)

Race (N)	Level of Agreement					Total
	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree	
White (366)	7	18	33	28	14	100
Black (131)	4	5	20	27	44	100
Other (58)	10	21	28	21	21	100

Chi-Square = 61.79 df = 8 (p < .001)

Not surprisingly, African American respondents were also far more likely than their non-black counterparts to define minority overrepresentation as a major challenge facing juvenile justice decision

makers. Indeed, compared to fewer than half of white and other non-black respondents, nearly three-fourths of African American decision makers expressed either agreement or strong agreement that minority overrepresentation is a serious problem (Table 9.10).

Age differences also mark decision makers' attitudes toward the accountability ideal. Younger respondents, particularly those under thirty years of age, were significantly more likely than older respondents to identify with the punishment-based definition of accountability. On the other hand, older respondents were more inclined than their younger counterparts to prioritize fairness (Table 9.11).

Table 9.11: Mean Identification with Accountability Definitions, by Age

Age Group (N)	Accountability Definition			
	Victim's Rights	Punishment	Rehabilitation	Fairness
20-29 years old (135)	3.51	3.29 ^a	3.72	3.38 ^a
30-39 years old (182)	3.58	3.20 ^{ab}	3.86	3.65 ^{ab}
40-49 years old (154)	3.51	2.94 ^b	3.89	3.71 ^b
50 and older (112)	3.67	2.91 ^b	4.00	3.88 ^b
<i>F</i>	.649	3.824*	1.730	5.104**

* $p < .05$

** $p < .01$

Note: Within columns, means with different superscripts are significantly different.

Differences by age in the identification of the most important accountability definition were not statistically significant. However, age differences were observed in attitudes toward the problem of minority overrepresentation. Older respondents in general, but especially those between forty and fifty years of age, were more inclined than others to consider minority overrepresentation a serious problem (Table 9.12). Finally, experience level, parental status and educational attainment were found to be

Table 9.12: Agreement that Minority Overrepresentation is a Serious Problem, by Age (%)

Age Group (N)	Level of Agreement					Total
	Strongly Disagree	Disagree	Neither	Agree	Strongly Agree	
20-29 years old (138)	6	20	32	30	12	100
30-39 years old (186)	10	14	35	24	18	100
40-49 years old (156)	4	11	24	30	31	100
50 and older (113)	10	16	23	24	27	100

Chi-Square = 32.83 df = 12 ($p < .01$)

generally marginal or insignificant predictors of accountability ideals in this study. In terms of experience levels, which were measured by the length of time the respondent worked in their present position, respondents with greater seniority were significantly more likely to identify with the rehabilitation-based definition of accountability (Table 9.13). Experience was not related to attitudes toward the most important definition or minority overrepresentation.

Table 9.13: Mean Identification with Accountability Definitions, by Experience

Years of Experience (N)	Accountability Definition			
	Victim's Rights	Punishment	Rehabilitation	Fairness
0-2 (136)	3.51	3.15	3.63 ^a	3.44
3-5 (131)	3.55	3.12	3.95 ^{a,b}	3.68
6-10 (125)	3.54	3.02	3.95 ^{a,b}	3.76
11-20 (110)	3.67	3.18	4.04 ^b	3.67
21 or more (65)	3.54	2.98	3.94 ^{a,b}	3.75
F	.387	.539	3.685*	2.174

* $p < .05$

Note: Within columns, means with different superscripts are significantly different.

DISCUSSION

As this analysis has presented findings from simple bivariate analyses of survey data, we can only draw tentative conclusions about the nature of decision maker identification with the accountability ideal. Nonetheless, in anticipation of the more rigorous multivariate analysis of these data in Chapter 10, it is worthwhile to consider some of the implications of the findings just presented.

First, despite the prominence of individualized "just desserts" philosophy in much of the general discussion and formal policy on accountability in juvenile justice, our punishment-based definition received generally low levels of support from decision makers we surveyed. With the important exceptions of prosecutors and younger respondents, both of whom represent key "new players" in the arena of juvenile justice administration, we found higher levels of identification with rehabilitation and system-fairness. While findings related to these subgroups may foreshadow a changing of the guard in juvenile justice, this analysis generally reveals little change in the philosophy of juvenile justice administration. In the midst of shifting juvenile codes, harsh rhetoric, and federal incentives to become more punitively oriented toward the handling of delinquency, it appears that decision makers are somewhat more inclined to support traditional principles in juvenile justice administration and the more liberal variant of accountability that grew out of reforms in the 1960s and 70s (i.e. decriminalization,

deinstitutionalization, diversion, and due process). This is especially true of specific subpopulations in our sample, such as defense counsel, African Americans, and older decision makers.

We are also interested in determining how decision makers recognize and balance the dual necessity of individual (i.e. offender) and system accountability. On this point we have found mixed results. On one hand, there is a clear indication that decision makers recognize the need for system accountability. While each of our definitions contain a system-accountability component, in so far as they reference the responsibility of decision makers to particular groups of stakeholders, two of the definitions are especially relevant to system accountability. The definition based on victim's rights recognizes the responsibility of juvenile justice administrators to correct harm done to individuals and communities by juvenile delinquency. Additionally, the definition of accountability based in fairness invokes the responsibility of decision makers to be impartial and equitable in their dispensation of juvenile justice, ensuring that youthful offenders and by extension their communities receive reasonable uniformity in the quality of service. We found generally high levels of support for either or both of these definitions by the decision makers we surveyed.

Support was less evident in the case of our independent proxy for support of system accountability, especially among specific subpopulations of decision makers. We considered how respondents viewed the seriousness of minority overrepresentation, keeping in mind that the federal government has issued a mandate for state systems to evaluate and address this problem, which we consider an objective indicator of the seriousness of this problem for juvenile justice administration. Furthermore, in all of our respondents' specific states and counties, minority youth are significantly overrepresented in juvenile and adult correctional institutions. Yet, respondents as a whole were hardly unequivocal in their agreement that minority overrepresentation constitutes a serious problem. In the full sample, slightly less than fifty percent of respondents indicated clear agreement with the statement we presented, and considerable proportions of certain sub-populations actually disagreed. In fact, the only groups to indicate generally high levels of agreement with the statement were African Americans, defense counsel and, to a lesser extent, older decision makers. We are particularly concerned that roughly thirty percent of all non-black respondents and more than sixty percent of the prosecutors in our sample indicated disagreement with the statement that minority overrepresentation is a serious problem. Thus, notwithstanding other indications of support for system accountability, in the case of this specific and rather controversial challenge, these trends give cause to suspect that some decision makers within juvenile justice are not fully integrating federal policy on minority overrepresentation nor assuring such adherence within the communities they serve.

SUMMARY AND CONCLUSION

We have suggested that the ideal of accountability has become an increasingly prominent installment on the American cultural and institutional landscape. While our interest has been in its application within juvenile justice administration, the discourse of accountability finds ubiquitous expression in modern American life. It has, to some degree, obtained a position in the popular culture. For example, a college athletic director stated in a press conference regarding his dismissal that he had done everything in his power to build and maintain accountability in the program. Elsewhere in official remarks to concerned community residents and other stakeholders, a representative of a state's child-welfare agency used the term accountability approximately seven times in a five minute span to describe the quality of services provided.

In theory, the ideal of accountability is another way of describing individuals and institutions as responsible for their conduct and its impact on the world around them. However, when we move from the realm of ideas to the hard realities of practice, the infallibility of the accountability ideal dwindles as an organizing principle for institutions and individuals. Access to housing, education, poverty relief and health care were at one point contained in the terms of the American social contract, but these "rights" can be subtly and sometimes forcefully repudiated in the accountability motif (Kelley, 1997, pp. 79-81). There are important reasons to proceed with caution in the pursuit of accountability and, at the very least, to demand clarification of its conceptual thrust and finer practicalities.

In the realm of juvenile justice administration, it is important to clarify who exactly will be "held accountable." There is an equal need to demand responsibility of individual youthful offenders as well as of decision makers who process and manage their cases and of the system as a whole. When an agreed upon formula of accountability has been identified, the challenge remains to find the mechanism by which this can be reasonably implemented. Based on findings reported here, we share the sentiment of other researchers that, at present, there is little indication that a coherent accountability ideal has emerged to effectively reorganize and improve the quality of decision making in the administration of juvenile justice.

This empirical analysis found little consensus in the operational meaning and implication of accountability for juvenile justice administration. Interestingly, the greatest amount of agreement occurred around a hypothetical definition of accountability differing little from the rehabilitative ideal it seems to have replaced in the realms of discourse and policy. Perhaps more striking than this conceptual ambiguity was the finding that different categories of juvenile justice decision makers possess divergent, and, in some ways, antithetical, orientations toward the principle of accountability. If we accept that minority overrepresentation is a problem decision makers should address, as Congress has determined, it is essential to reconcile as well as change the perceptions of white and black decision makers who

maintain divergent positions on the seriousness of the situation. Since this problem is a broad, social-contextual phenomenon, involving complex race and class relations, we cannot adequately address it here. The mandate for future research is to probe further into the connections between accountability ideals and the individual roles of decision makers, to include how race, age, education and other characteristics color these relationships.

Finally, an especially important implication of these findings concerns the distribution of power and influence in the administration of modern juvenile justice. As previously pointed out, different types of decision makers in our sample (judges, probation officers, prosecutors, and defense counsel) identified with divergent definitions of accountability. On the surface, this finding may seem less significant and could be interpreted as confirmation of a working system. If each decision maker maintains allegiance to a specific group of stakeholders, for example, with judges serving the overall public interest, prosecutors strictly enforcing the law, and defense counsel faithfully serving their clients, we should expect variations in the prioritization of competing accountability ideals. Thus, these decision makers working together in the administration of juvenile justice might produce a system of "checks and balances" where, at the end of the day, accountability is obtained at all levels. However, the reality of present day juvenile justice administration presents a different and more troubling scenario.

The hallmark of accountability reform has been a liberalization of the mechanisms by which juveniles can be severely punished for serious and/or chronic delinquent behavior. Key to this procedural change has been the ascendance of the prosecutorial role in juvenile justice administration. In many jurisdictions, prosecutors now perform several of the duties previously reserved for judges and probation officers, including the determination of the formal charge and jurisdiction (i.e. juvenile or adult) where the case should be adjudicated or tried. Moreover, researchers have indicated that defense counsel tends to play a marginal role at best in juvenile justice administration, and, in some cases, their presence may generate resentment by judges and prosecutors translating into a more punitive disposition toward the juvenile offender (Feld, 1999, p. 137). In terms of decision maker participation and increasingly in the new accountability era, juvenile justice administration is a generally imbalanced operation with a high level of prosecutorial authority. If our findings on the accountability ideals of decision makers are representative of practice, this uneven participation will likely diminish the prospects for a balanced accountability ideal in the administration of juvenile justice. The situation may be especially dire for certain groups of youthful offenders, such as minorities.

A genuine commitment to an accountability ideal for juvenile justice will require institutions and decision makers to be as responsible for their performance as we intend to hold youth for their actions. The first part of this challenge, summarized here as system accountability, entails at least two components. First, as Rossum et al. (1987) point out, for a juvenile justice system to be accountable, "the

guiding principles of intervention must be reasonably explicit and clearly stated." Additionally, "the public must have an opportunity to determine how well [these principles] are being followed." (Rossum et al., 1987, p. 12). If the forfeiture of childhood is at stake, we cannot take for granted the cultural rationale and procedural underpinnings of accountability-based sanctions, and we must pursue sound and measurable procedures. Future research and policy intervention should help to clarify the accountability ideal in juvenile justice by specifying how this principle can be applied and monitored at multiple levels of case processing. If we also incorporate consideration of the accountability of communities for their children, then responsibility for change in the critical community conditions that perpetuate delinquency is a shared responsibility of the community with the justice system. While considerable confusion around the meaning and significance of accountability in juvenile justice remains, there is one thing about which we can be reasonably certain, the more this concept is applied evenly in the administration of juvenile justice – to the community, to system policies, to juvenile justice practitioners, and to individuals under their control – the more legitimacy and value the ideal will retain for juvenile justice in a democratic society.

CHAPTER 10

ORIENTATIONS TOWARD DELINQUENCY CASE PROCESSING IN TWELVE JUVENILE COURT CONTEXTS

The philosophical and procedural foundation of American juvenile justice administration has been substantially reconfigured in the past fifty years. As noted elsewhere in this research, these changes have revolved substantially around perceptions of youth crime and how to control it and have focused on the relative merits of seeking to treat and/or punish juvenile offenders of the law in the disposition and management of delinquency cases. In more recent years, arguments for punitive sanctions have become especially prominent, and policy changes have reflected the dominance of this position. While remaining among the diverse organizing principles of modern juvenile justice, the rehabilitative ideal has been gradually weakened and the largely retributive principle of accountability is gaining prominence. Noting this shift, several researchers have sought to account for the socio-historical and legal origins of these transformations, as well as their impact on contemporary patterns of juvenile case processing (See Howell, 1997; Feld, 1999; and Fagan & Zimring, 2000).

In light of these developments, it is worthwhile to consider whether the orientations of decision makers in juvenile justice reflect these conceptual and organizational shifts in their field. We cannot assume that politically-infused rhetoric and formal policy innovations translate directly into practice (Fisher & Dirsmith, 1995). We have already noted, for example, that patterns of juvenile justice administration are differentiated not only by legislation, but also by resource structures, court organization, and court community characteristics. Thus, it is plausible that decision maker attitudes toward juvenile justice administration are impacted by a variety of factors. Notwithstanding the prominent national trend toward a more retributive model of juvenile justice, decision makers across court contexts may display substantial variation in their orientations depending upon factors relevant to those environments, as well as on their individual characteristics. This is an empirical question. Thus, drawing on findings from a survey of professionals ($N = 665$) in twelve Midwestern juvenile courts, this chapter examines how the personal and contextual characteristics of decision makers are related to orientations toward delinquency case processing.

The chapter is organized in four parts. First, we review the empirical literature on attitudes toward case processing, noting its focus on both individual-level and contextual correlates of attitudes, as well as its use of the “resonances” construct, to theorize how personal attributes are related to orientations toward justice administration. Following this review, we outline the design of the present research,

characteristics of the data and our sample, and methods employed in their analysis. Next, we present our analysis plan and bivariate and multivariate findings. We then discuss these findings and their implications for research and policy in juvenile justice administration.

ORIENTATIONS TOWARD JUSTICE ADMINISTRATION: A REVIEW OF THE LITERATURE

Researchers have consistently found that orientations toward justice administration vary considerably among general citizens and justice system representatives alike, and that this variation is related to a number of individual and contextual factors. For example, researchers have found that personal attributes including age, education, race and occupation may be related to attitudes toward justice administration within the general public (Grasmick & McGill, 1994; Schwartz et al., 1993; Grasmick et al., 1992; Young, 1991) and among justice system professionals (Davis et al., 1993; Myers, 1988; Miethe & Moore, 1988). In a survey of 330 adults in one Southwestern city, Grasmick and McGill (1994) found that level of education was inversely related to support for punitiveness in juvenile justice and that men were significantly more likely to support punitiveness than women. Schwartz et al. (1993) observed in an analysis of national opinion data that age was significantly and positively related to support for punitive policies in juvenile justice and that non-parents were more punitive than adults with children.

To their surprise, Schwartz et al. (1993) found that African American parents were more likely than parents in other racial and ethnic groups to support the punitive handling of juvenile offenders, a finding they attributed to greater urban concentration and fear of victimization among African American respondents. However, the research literature also gives cause to anticipate greater leniency among African Americans, at least with respect to specific issues in justice administration. For example, as Young (1991) relates, "one of the most persistent findings of public opinion polls is that blacks are more likely than whites to oppose capital punishment" (p. 67).

Researchers have observed similar relationships between personal characteristics and sanctioning orientations among professionals in justice administration. For example, a study of juvenile justice professionals found evidence supporting the hypothesis that "to a significant degree the sentencing of a particular juvenile is influenced by the individual belief systems of the...personnel with whom he or she comes into contact" (Davis et al., 1993, p. 454). Research has unfortunately been rather inconclusive, however, in its assessment of the extent to which professional orientations determine case processing outcomes. While a study of the Canadian criminal justice system concluded that "one can explain more about sentencing by knowing a few things about a judge than by knowing a great deal about the facts of the case" (Hogarth, 1971, p. 350; cited in Davis et al., 1993, p. 452), research in this country suggests that

decision maker attributes are of relatively little significance to case processing outcomes, at least in the case of adult courts (Myers, 1988). Specifically, in one of few studies combining case-level and decision maker data in an analysis of sentencing *outcomes*, Myers (1988) found that case characteristics were far more influential on actual sentencing decisions than demographic and background characteristics of judges. Meanwhile, in a similar study of juvenile court sentencing, Davis et al. (1993) found that decision maker attributes were significant predictors of outcomes.

It is reasonable to suspect that relationships between professional orientation and case processing are most pronounced in the context of juvenile justice, where the system has been traditionally distinguished by its greater reliance on decision maker discretion and especially the authority of the judge (Davis et al., 1993). As Rothman (1980) observed, the original organizational structure of the juvenile court "made the personality of the judge, his [sic] likes and dislikes, attitudes and prejudices, consistencies and caprices, the decisive element in shaping the character of his [sic] courtroom" (p. 238). While this traditional informality has been reduced by due process reforms in the 1960s, and again by more recent modifications of juvenile codes, much room remains for the exercise of discretion on the part of juvenile justice professionals. In fact, while these reforms may have diminished the role of discretion to some degree, they have also involved redistributing this authority, especially by transferring it from judges to prosecutors (Rubin, 1980; Armstrong & Altschuler, 1982; Altschuler, 1996).

In view of these changes, and the possibility that decision maker attributes are most salient in the juvenile court context, it is important for research to continue to examine the correlates of professional orientation toward juvenile justice administration. As in the case of the general public, it is clear that individual characteristics are related to professional orientation. Moreover, these relationships may be specific to adult and juvenile jurisdictions. For example, while older judges in the adult system were slightly more inclined than their younger counterparts to incarcerate offenders, a study of decision makers in the juvenile context observed a significant and *negative* relationship between age and support for punitive sanctions (Myers, 1988; Davis et al., 1993). This finding may reflect the traditional treatment ideal of juvenile justice which may resonate with older decision makers in that professional context.

Researchers also have found strong relationships between professional orientations toward justice administration and occupational role. Analyzing a survey of adult court judges, prosecutors, and public defenders, Miethe and Moore (1988) found that attitudes toward sentencing guidelines were conditioned by a respondent's formal role in justice administration. The authors concluded that rather than assessing sentencing reform objectively, decision makers evaluated it on the basis of their unique interests, proposing to change the guidelines in ways which might improve their relative positions (Miethe & Moore, 1988). Another study analyzed a national opinion survey of juvenile justice and youth-serving professionals, finding marked differences among judges, attorneys, probations officers, and police in their

conceptions of best practice and support of reforms (Rossum et al., 1987). The survey measured attitudes toward several practices which would substantially alter the administration of juvenile justice, shifting attention from treatment and rehabilitation toward punishment and retribution and reducing the discretionary power of legal personnel. Similar to Miethe and Moore (1988), the authors noted a tendency among decision makers to oppose changes which would alter their work routines and responsibilities. While this study did not control for multiple effects, it suggests again that the personal characteristics of decision makers, particularly occupational role, may differentiate professional orientations toward justice administration.

In addition to considering individual-level effects, researchers have considered how the *context* in which a decision maker works may influence their orientation toward justice administration. Utilizing a survey of decision makers in two detention centers, one where reforms were implemented and another where they were not, Bazemore et al. (1994) examined the impact of policy reform on the attitudes of detention workers.¹ While cautious in reporting their findings, as the study did not measure attitudes prior to the reform or create an adequate experimental environment, the researchers found evidence that variation in the professional orientations of detention workers was primarily a function of differences in the organizational environment of these two detention facilities (e.g. formal and informal policies) (Bazemore et al., 1994). This suggests the importance of gaining an understanding of the specific contexts in which decision makers work and the impact of these contexts on decision maker orientations.

Sanborn (1996) provides further evidence that context is significantly related to the orientation of justice professionals. His study examined factors perceived by juvenile court workers (judges, prosecutors, defense attorneys, and probation officers) to affect disposition decisions. In an effort to determine whether demographic composition or court size and caseload had any bearing on the perceptions of the juvenile court practitioners, the study considered three separate courts (urban, suburban, and rural) in a single Northeastern state (Sanborn, 1996). Sanborn observed variation in the perceptions of court workers, and, by extension, in the apparent organization of justice administration across contexts. Interestingly, decision makers tended to agree on which factors *should* be considered in dispositions, but diverge in their assessments of which factors were *actually* considered. The contextual distinction of greatest significance in this study was between urban and non-urban courts. Perceptions among workers in suburban and rural courts were quite similar, but diverged sharply from the perceptions of urban court workers (Sanborn, 1996).

¹ The objective of this reform was to, "gain control over escalating populations of detainees by implementing objective intake criteria and risk assessment procedures" (Bazemore et al., 1994, p. 38).

Some researchers have employed the concept of "resonances" to theorize the link between various demographic and social background characteristics of decision makers and corresponding orientations toward justice administration. As Davis et al. (1993) summarize, this concept provides a framework for interpreting the "underlying dimensions that integrate various types of variables such as attitudes, beliefs, and personality characteristics into coherent patterns" (p. 452). In theory, these patterns combine with factors external to the decision maker (i.e. context) to shape general orientations toward justice administration and, in some cases, actual decisions and outcomes.

This theory has been most developed in studies considering the relationship between religiosity and orientations toward justice administration (Grasmick & McGill, 1994; Grasmick et al., 1992; Leiber et al., 1995). These studies explore the hypothesis that individuals make attributions for criminal behavior based partially on their religious beliefs and that these religiously-based resonances correspond with attitudes toward the disposition of cases. Analyses have focused specifically on the relationship between punitive orientations toward the handling of offenders and the cultural belief-set of conservative Christianity. In so far as Christian fundamentalism emphasizes individual character and accountability, for example, viewing evil as a nearly inescapable character defect of certain people, a decision maker aligned with this faith may be inclined to attribute the cause of criminal or delinquent behavior to the moral defects of an offender (i.e. disposition), rather than their environment (Krisberg, 1991, cited in Grasmick & McGill, 1994). Through this effect on patterns of attribution, Christian fundamentalist resonances are expected to correspond with decision makers being more punitive in their case-processing orientation and less inclined to support treatment-oriented responses to crime and delinquency.

This hypothesis finds consistent support in empirical research. Specifically, the extent to which citizens (Grasmick & McGill, 1994; Grasmick et al., 1992) and justice system professionals (Leiber et al., 1995) interpret the Bible literally, a common measure of Christian fundamentalism, is a significant and positive predictor of support for punitiveness in justice administration. Additionally, this effect appears to reflect divergence in the attributional tendencies of those with fundamentalist and non-fundamentalist resonances. These findings have important implications for our understanding of how socio-cultural factors influence patterns of justice administration. Researchers have suggested, for example, that trends toward more retributive policies in criminal and juvenile justice, which have often been attributed to fear of crime or dissatisfaction and disappointment with attempts to rehabilitate offenders, may be due, to a greater extent, to the recurrence and expansion of conservative Christianity and its efforts to impact public policy in the contemporary U.S. (Grasmick & McGill, 1994).

While researchers have focused primarily on religiously-based resonances, there are likely other clusters of attitudes and personality variables which also influence orientations towards justice administration. Racial identity, for example, may also be a marker of attitudinal distinctions. In a study

of support for the death penalty among residents of Detroit. Young (1991) proposed that distinct resonances among African American and Anglo citizens may explain their attributions for criminal behavior, sensitivity to the administration of justice, and divergent orientations toward capital punishment. Rather than assigning an essential or autonomous meaning to racial status, this argument posits that African Americans and Anglos have distinct relationships to criminal justice systems and that these relationships in turn influence their respective orientations toward justice administration in general and specific issues therein (i.e. the death penalty).

Specifically, Young suggests that African Americans are more dependent on the criminal justice system than Anglos, both for protection, as disproportionate victims of violent crime, and for system fairness, as they are disproportionately brought before the system as defendants. As such, more so than their Anglo counterparts, African Americans are expected to be "keyed perceptually to the actions of justice system representatives, and...to see representatives of that system as having direct influence over private citizens" (Young, 1991, p. 68). This resonance is expected to make support of capital punishment among African Americans uniquely conditional "[on] the degree to which they perceive the system to be fair in its dealings with citizens" (Young, 1991, p. 68). Anglo-Americans, on the other hand, because of their relatively rare contact with the justice system, are expected to invoke other resonances in their attitudes toward capital punishment. "Less keyed perceptually to the actions of system representatives," Young suggests, "whites are inclined to focus their attention on the actions of individual criminals and to support or oppose the death penalty on the basis of whether they attribute criminal behavior to personal or to environmental characteristics" (Young, 1991, p. 68).

This prediction of racially distinct resonances was supported by an analysis of attitudes toward capital punishment in Detroit. Young observed differences in the "criteria employed by blacks and by whites in formulating their attitudes [toward capital punishment]" (p.72). Whereas African American orientations were influenced most strongly by their confidence in the police to use discretionary power responsibly, a measure of attitudes toward system fairness, orientations toward the death penalty among Anglo respondents were unrelated to this variable, but, instead, were conditioned by their perceptions of criminal responsibility (Young, 1991). While specific in its thematic focus, this study provides empirical support for an expectation that race may differentiate the resonances individual citizens and professionals alike employ in their formation of attitudes toward justice administration.

Finally, research also suggests that resonances may be triggered, or their significance amplified, by specific *types* of issues in justice administration. Several studies have found that the personal orientation of a decision maker may be more relevant in the handling of sex crimes than in that of other types of offenses (Davis et al., 1993; LaFree, 1980; Feldman-Summers & Linder, 1976). In their analysis of offense-specific decision making in juvenile justice administration, Davis et al. (1993) found that, "the

sentencing of crimes of a sexual nature, especially those that are considered serious (as opposed to very serious), seems sensitive to a wider variety of personality [and] demographic variables than other types of crimes such as assault or theft" (p. 471). Thus, while constantly present in the thought processes of individuals, the significance of decision maker resonances to actual outcomes may be contingent upon the specific components of their deliberation. The observation of racially distinct resonances in research on support for the death penalty, for example, may not be generalizable to other types of sanctions such as probation or incarceration, where lower stakes may diminish concerns about fairness. On the other hand, the significance of individual orientations may increase on occasions where they are most passionate, or perhaps, where there is sufficient leeway for these discretions to make a difference. In any event, while researchers have yet to determine how and why resonances fluctuate in significance, they have provided substantial evidence that "there may exist distinct groups of individuals within the juvenile [and adult] justice system that hold differing systems of beliefs and sentence accordingly" (Davis et al., 1993, p. 472). Researchers should therefore continue to examine this variation, both in the attitudes of the general public and in those among decision makers in justice administration.

THE PRESENT RESEARCH

This chapter examines the individual, contextual, and thematic correlates of professional orientations among a sample of juvenile court decision makers in twelve Midwestern counties. First, we attempt to understand the bivariate relationship between contextual and individual level factors and the following two basic priorities in delinquency case processing: rehabilitation and punishment. Second, controlling for individual, thematic, and contextual factors, we attempt to discern how these decision makers (judges, probation officers, prosecutors, and defense attorneys) identify with the two basic priorities of rehabilitation and punishment. Finally, the analysis considers how respondents prioritize four competing definitions of accountability, conceptually grounded in ideals of rehabilitation, punishment, victims' rights, and system fairness, and the degree to which respondents feel that the overrepresentation of minorities in the juvenile justice system is a problem.

Data

Table 10.1 contains the descriptive statistics and Table 10.2 the intercorrelations for the sample in this analysis. The analysis utilizes data obtained through a self-administered survey of decision makers in twelve juvenile courts. Chapter 2 describes the instrument and sample in detail. We surveyed probation officers, judges and referees, prosecutors and defense attorneys in four Midwestern states (three courts within each) directly involved in case processing. The survey examined their general orientations toward case processing, more specific views on promoting accountability in juvenile justice, and other attitudes toward reform. While our respondents process and manage a range of juvenile cases (i.e. dependence and neglect, custody, and delinquency), this analysis focuses specifically on orientations toward delinquency case processing.

Table 10.1: Descriptives of Variables in Analyses

Variable	Mean	Standard Deviation
Age	38.8	10.0
Female Respondents	0.49	0.50
Non-white Respondents	0.34	0.47
Experience	8.47	7.84
Masters Degree or Above	0.46	0.50
Parents	0.56	0.50
Judges	0.12	0.33
Prosecutors	0.05	0.21
Defense Attorneys	0.09	0.28
Probation Officers	0.74	0.44
Legal	4.45	0.60
Behavior	4.08	0.66
Family	3.93	0.72
Victim	3.74	0.69
Sufficient Programs	2.92	1.05
Mid/Non-Metro County	0.25	0.43
Juv. Arrest Rate (Overall)	95.8	30.0
% Decrease in Part 1 Juv. Arrest Rate	31.0	17.6
% Minority Youth	33.5	10.4
Punitive Orientation	3.31	0.75
Treatment Orientation	4.15	0.56
Accountability: Victim	0.22	0.42
Accountability: Punishment	0.13	0.34
Accountability: Rehabilitation	0.44	0.50
Accountability: Fairness	0.20	0.40
Minority Overrepresentation	3.41	1.19

Table 10.2: Intercorrelations for Variables Used in Analysis

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	
1. Age	1.00																										
2. Female	-.23**	1.00																									
3. Non-white	-.03	-.00	1.00																								
4. Experience	.62**	-.12**	-.05	1.00																							
5. Masters degree	.38**	-.09*	-.13**	.12**	1.00																						
6. Parent	.31**	-.11**	.07	.29**	.05	1.00																					
7. Judge	.32**	-.08	-.06	.04	.42**	-.02	1.00																				
8. Prosecutor	.03	-.03	-.11**	-.11**	.25**	-.07	-.08*	1.00																			
9. Defense	.11**	-.12**	-.09*	-.09*	.34**	.08*	-.12**	-.07	1.00																		
10. Probation	-.33**	.15**	.16**	.09*	-.66**	-.00	-.64**	-.38**	-.53**	1.00																	
11. Legal	.01	.05	.01	-.04	.03	-.12**	.03	.14**	-.08	-.04	1.00																
12. Behavior	-.01	.09*	.18**	.00	-.05	-.07	-.06	-.02	-.06	.09*	.30**	1.00															
13. Family	-.06	.09*	.14**	-.02	-.03	-.02	-.03	-.19**	.07	.06	.15**	.53**	1.00														
14. Victim	-.09*	.02	.13**	.02	-.18**	-.08	-.13**	.09*	-.32**	.26**	.23**	.32**	.24**	1.00													
15. Sufficient Progs	.04	-.12**	-.15**	.13**	-.03	.08	.04	.01	-.15**	.06	.08	-.00	.00	.04	1.00												
16. Mid/Non-Metro	.03	-.03	-.20**	.04	-.03	.08	-.01	.04	.07	-.05	-.01	-.07	.11**	.06	.12**	1.00											
17. Juv Arrest Rate	-.16**	-.01	-.15**	-.02	-.13**	.01	-.09*	-.13**	.05	.10*	-.01	-.13**	.03	.05	.13**	.16**	1.00										
18. % Dec Ptl JAR	.13**	-.04	.18**	.05	.14**	.01	.04	.04	.01	-.06	-.02	.13**	-.08	-.06	.02	-.38**	-.63**	1.00									
19. % Minority Youth	.05	.01*	.25**	.00	.06	-.08*	.01	.08	-.09*	.02	.03	.14**	-.06	-.04	-.22**	-.79**	-.53**	.46**	1.00								
20. Punitive	-.29**	-.02	.09*	-.14**	-.30**	-.16**	-.14**	.13**	-.37**	.28**	.28**	.20**	-.02	.38**	.02	-.07	-.01	-.04	.08	1.00							
21. Treatment	.01	.15**	.17**	-.00	-.00	-.07	-.05	-.07	.12**	-.01	.19**	.50**	.54**	.36**	-.07	.01	-.02	.06	.06	-.06	1.00						
22. Acct Victims	-.02	.04	-.14**	-.05	-.07	.00	.05	.12**	-.15**	.01	.08	-.06	-.06	.26**	.07	.06	.13**	-.09*	-.12**	.14**	-.06	1.00					
23. Acct Punishment	-.09	-.06	.05	-.08	-.08	-.06	-.09*	.11*	-.09*	.07	.12*	.07	-.09*	.06	-.02	-.02	-.08	.00	.08	.38**	-.09*	-.21**	1.00				
24. Acct Rehab	.04	.05	-.02	.09*	.05	-.02	-.06	-.15**	.16**	.01	-.10*	.06	.14**	-.16**	-.02	-.07	-.01	.03	.07	-.29**	.19**	-.48**	-.35**	1.00			
25. Acct Fairness	.04	-.06	.13**	.01	.07	.08	.09*	-.03	.04	-.08	-.05	-.07	-.03	-.12**	-.03	.04	-.06	.05	-.04	-.10*	-.11*	-.27**	-.20**	-.45**	1.00		
26. Minority Overrep	.09*	.03	.22**	.05	.03	.06	-.04	-.19**	.15**	.03	-.05	.05	.15**	.08	-.07	.00	.05	-.04	-.03	-.22**	.21**	-.07	-.17**	.07	.12**	1.00	

* p < .05

** p < .01

Measures

The independent variables for this analysis include individual decision maker characteristics, court and community contextual variables, and the thematic orientations of individual decision makers. Dependent variables include two case processing orientations (punishment and treatment), accountability priorities, and orientations toward the overrepresentation of minorities in the juvenile justice system. These variables are discussed below. For a diagram of the conceptual research model, please see Appendix B1.

Decision Maker Characteristics

We employ seven measures of decision maker characteristics, all of which were obtained through self-reports. Specifically, we are interested in how a respondent's gender, age, experience, race, parental status, educational attainment, and occupational role are related to the dependent variables of interest. In terms of gender, 51 percent of respondents were male and 49 percent female. Age ($M = 38.8$; $SD = 10.0$) and experience ($M = 8.47$; $SD = 7.84$) are measured continuously in years, with experience representing the amount of time in the present position. Race was measured categorically – of those who identified with a racial or ethnic group, 66 percent of respondents identified as non-Hispanic white, 23 percent as African American, 4 percent as Hispanic, less than 1 percent each as Native American and Asian American, and 6 percent as members of other racial and ethnic groups. For analysis purposes, race was collapsed into non-Hispanic white and non-white categories because of small cell sizes and a dummy variable indicating that the respondent was non-white was created ($M = .34$; $SD = .47$). For parental status, respondents with children were compared to those without children ($M = .56$; $SD = .50$). Likewise, educational attainment is a dichotomous variable, distinguishing between those with a master's degree or higher and those without a master's degree ($M = .46$; $SD = .50$).² Occupational role refers to the specific job the respondent performs in juvenile justice administration (i.e. judge/referee, probation officer, prosecutor or defense attorney). Probation officers constituted 74 percent of respondents, while 12 percent were judges, 9 percent defense attorneys, and 5 percent prosecutors.

² Educational attainment is only salient in separate analyses of the probation officer sample. There is no variation among other practitioners in levels of education, all having obtained postgraduate degrees.

Organizational and Community Context

The analysis employs several contextual controls measuring characteristics of the court organizations and broader counties where our respondents are employed. Two court organizational variables are included. First, resource sufficiency was measured with a survey question asking whether or not, in the respondent's opinion, their court has sufficient programs, services and resources to deal with juvenile delinquents. Respondents answered on a 5-point scale ranging from "to a very small extent" (1) to "to a very great extent" (5) ($M = 2.92$; $SD = 1.05$). Our second court organizational variable measures court size. In view of evidence in previous research that case processing varies most between large urban and smaller or non-urban courts, we have dichotomized the twelve courts in this study into Metro (5) and Mid/Non-Metro (7) categories. As a result, 75 percent of respondents were from courts in Metro counties and 25 percent were from courts in Mid/Non-Metro counties.

As juvenile courts are county-based institutions, our community context measures are aggregated at the county level. While we recognize the limitations of this approach, as counties are typically composed of multiple and diverse communities, data limitations provide little alternative for the present research. These measures are included in an effort to further distinguish the social contexts in which our respondents work. Due to the small number of counties in the sample, and the importance of avoiding a model with highly correlated independent variables, we consider just three measures of community context. First, using the Uniform Crime Report (UCR), two measures of juvenile crime rate are employed. We include overall juvenile arrest rates for each county in 1998 per 100,000 youth ($M = 95.8$, $SD = 30.0$) and the percentage decrease in the juvenile index crime arrest rate for each county in the period between 1994 and 1998 ($M = 31.0$; $SD = 17.6$). While the first measure is conceived as a general indicator of juvenile crime problems in each court community and the flow of potential cases into the system, the percentage change is used as an indicator of recent local trends in the seriousness of juvenile crime. Finally, as a proxy for socio-economic status distribution, we include a variable measuring the proportion of racial minorities in each county's juvenile population ($M = 33.5$; $SD = 10.4$). Other research (Sampson et al., 1999) suggests that percent minority youth is a marker of trends including higher levels of poverty and higher school dropout rates. This variable serves as a measure of both the racial characteristics of the general population served by the court and broader socio-economic characteristics of the county.

Thematic Resonance

In the interest of expanding our understanding of the “underlying dimensions that integrate various types of variables such as attitudes, beliefs, and personality characteristics into coherent patterns” (Davis et al., 1993, p. 452), we measure several thematic resonances which professionals may employ in formulating orientations toward justice administration. By thematic resonances, we refer to the concepts and issues a respondent prioritizes in making decisions about delinquency case processing. Here, we consider the extent to which respondents prioritize four sets of issues – legal factors, victims’ rights, family characteristics, and behavioral tendencies of the juvenile – in the disposition and management of delinquency cases. On the survey, respondents were asked a number of questions about the importance of a variety of factors in disposition decisions as well as in turning juveniles away from further involvement in delinquency and crime. From these questions, these measures of professional ideology were obtained using data reduction techniques (exploratory factor analysis) to develop four factor-weighted scales measuring attitudes toward the importance of each issue in delinquency case processing.³ They are measured with 5-point scales, with descriptives as follows: legal factors ($M = 4.45$; $SD = .60$), victims’ rights ($M = 3.74$; $SD = .69$), family characteristics ($M = 3.93$; $SD = .72$), and juvenile’s behavioral tendencies ($M = 4.08$; $SD = .66$).

Case Processing Orientation

The analysis estimates relationships between the aforementioned variables and three groups of dependent variables measuring decision maker orientations toward juvenile justice administration. First, we measure levels of identification with broad strategies of juvenile social control. These attitudes are measured by the use of two attitudinal scales assessing the extent to which the decision maker prioritizes punishment and rehabilitation, respectively, in their orientation toward the disposition and management of delinquency cases. These scales measure the respondent’s identification with each approach toward juvenile justice administration, with higher scores on the 5-point scales indicating greater levels of identification. As with the scales used to indicate thematic resonances, the treatment orientation scale ($M = 4.15$; $SD = .56$) and punitive orientation scale ($M = 3.31$; $SD = .75$) were created with exploratory factor analysis.⁴

³ Details on the content and reliability of each scale in the analysis are provided in Appendix B2.

⁴ Details on the content and reliability of these scales are provided in Appendix B2.

We then proceed to look at more specific decision maker orientations with regard to accountability. Whereas the general case processing measures were not mutually exclusive, respondents were forced to choose among four competing definitions in this set of dependent variables. Each of these definitions, developed by the authors of the survey, were designed to emphasize the distinct accountability relationships implied in the concepts of “just desserts,” rehabilitation, victims’ rights, and social justice. Each definition focused on a specific group to whom the juvenile justice system would be most accountable in the scenario and the specific ideal this represented (See Appendix B3 for the exact wording of the question and each definition). Respondents were asked to identify which of these accountability ideals they thought was most important in juvenile justice administration. For the multivariate analysis, we created four dichotomous variables, indicating whether or not the respondent thought each particular ideal was most important. Forty-four percent of respondents prioritized rehabilitation, 22 percent accountability to victims, 20 percent social justice and fairness, and 13 percent punishment.

The final dependent variable of interest considers professional orientations toward a racially-specific system accountability reform in juvenile justice administration. As discussed previously in this report, the federal government issued a mandate in 1992 for state and local jurisdictions to identify and address the problem of minority overrepresentation in their juvenile justice systems. Similar to the liberal accountability reforms of the 1960s and 1970s (i.e. deinstitutionalization and due process), this policy represents an effort to promote the best-interests of minority juveniles by increasing accountability and fairness in system administration. In this analysis, orientations toward this racialized system accountability ideal are measured by a survey item asking respondents to identify their level of agreement, on a scale of 1 to 5 (with a higher score indicating more agreement), with the following statement: “Minority overrepresentation is a serious problem facing decision makers in juvenile justice” ($M = 3.41$; $SD = 1.19$). As the mandate remains in effect, and minority youth remain overrepresented in many aspects of case processing, it is reasonable to expect general agreement. However, in view of the finding in previous research that professional orientations may be contingent on the types of issues under consideration, it is also possible that levels of agreement with this statement will diverge sharply and in ways not observed in our other measures of professional orientation. Concurrence with this statement is taken to indicate support for racially-specific system accountability reforms in juvenile justice, while disagreement is taken to indicate the absence of such support.

ANALYSIS

The statistical analysis was carried out in two stages. First, bivariate correlations and analysis of variance (ANOVA) were used to examine how individual-level and contextual characteristics of decision makers in our sample were related to punitive and rehabilitative orientations toward juvenile justice administration. When the analyses of variance produced significant results, significant differences between specific groups were tested. The Tukey post-hoc test was used when equality of error variances could be assumed, as indicated by a non-significant result on Levene's test for equality of error variances. The Games-Howell post-hoc test was used when the Levene's test rejected the assumption of equality of error variances.

Next, we developed several regression models to estimate the effects of individual decision maker characteristics, contextual factors, and thematic resonances on orientations toward juvenile justice administration. First, Ordinary Least Squares (OLS) models were used to estimate the effects of these variables on punitive and rehabilitative professional orientations. Logistic regression was then used to test this model on the prioritization of competing accountability definitions. Finally, we present an OLS model estimating the effects of these independent variables on professional orientations toward the overrepresentation of minorities in the juvenile justice system. In each case, hierarchical models were used to examine the relative effects of the individual, contextual, and thematic effects on the dependent variable of interest.

Bivariate Findings

As indicated in Table 10.2, there are significant bivariate relationships between orientations and many individual-level characteristics. Although no significant differences were found between men and women on the punitive attitude scale, women were more treatment oriented than men ($p < .01$). Racial and ethnic differences were found on both punishment and treatment, with white respondents being both less punitive ($p < .05$) and treatment ($p < .01$) oriented than nonwhites. Decision makers with children were significantly less punitive than decision makers without children ($p < .01$); however, a significant correlation between treatment orientation and parental status was not found.

Age was negatively correlated with punitive orientation ($p < .01$), indicating that younger respondents were more likely to favor punishment. There was no relationship between age and treatment orientation. Likewise, experience was negatively related to punishment ($p < .01$), but unassociated with treatment. Similarly, decision makers with a masters degree or above were less likely to be punitive than

those with a Bachelor's degree ($p < .01$), although educational attainment was unassociated with treatment orientation.

Table 10.3 presents results of analyses of variance for the attitude scales by type of decision maker. In terms of punishment orientation, prosecutors were significantly more punitive than both judges ($p < .01$) and defense attorneys ($p < .01$). A trend level difference in punitive orientation was found between probation officers and prosecutors ($p < .10$), the latter being more punitive. Probation officers were significantly more punitive than both judges ($p < .01$) and defense attorneys ($p < .01$). Judges were significantly more punitive than defense attorneys ($p < .01$). Significant differences were found between all of these groups, pointing to the substantial impact of type of position on punitive case processing orientation.

On the treatment orientation scale, significant differences were found between defense attorneys and probation officers ($p < .01$), judges ($p < .01$), and prosecutors ($p < .05$). Defense attorneys are significantly more treatment oriented than the other three types of decision makers, but differences were not found among these latter three groups. This result differs considerably from that of the punishment orientation scale, where differences were identified across all four groups.

Table 10.3:
Analysis of Variance of Orientation by Position Type

	Punishment	Treatment
<u>Type</u>	F=43.9***	F=4.55**
Probation officer	3.41 ^a	4.14 ^a
Judges	3.05 ^b	4.08 ^a
Prosecutor	3.74 ^c	3.97 ^a
Public defender	2.42 ^d	4.37 ^b

** $p < .01$; *** $p < .001$

Note: Variables with different superscripts are significantly different.

Several contextual relationships were observed in ANOVAs examining relationships between state context, court size,⁵ and county context on punitive and rehabilitative orientation. Table 10.4 reports the results for state context and county size. While decision makers in Indiana were significantly

⁵ This variable reflects the distinctions we made in Chapter 2 regarding the breakdown of courts into Metro, Mid-Metro, and Non-Metro categories.

more punitive than decision makers in Michigan, significant differences in punitiveness were not found between decision makers in any other states. Decision makers in Illinois were significantly more treatment oriented than those in both Ohio ($p < .01$) and Indiana ($p < .05$). Decision makers in Michigan were significantly more treatment oriented than those in Ohio ($p < .05$), and a weak trend level difference was found between those in Michigan and Indiana ($p < .10$). In terms of court size, trend level differences were only apparent on the punishment orientation scale, indicating that those in Metro counties are slightly more punitive than those in Mid- and Non-Metro counties ($p < .10$).

County level differences were also examined using analysis of variance (see Table 10.5). Significant differences were found between MidMetroA, a county in Michigan, and many other counties on the punishment orientation scale, with those in this county being less punitively oriented. Additionally, differences in treatment orientation were found between decision makers in MetroB2, a county in Ohio, and those in several other counties, with those in MetroB2 being less treatment oriented. It is important to note that because of the size of some counties, the cell sizes may have been too small to indicate significant differences. This is one limitation with breaking the sample into twelve different groups with varying court sizes. Thus, the results for the counties must be interpreted with some caution.

Table 10.4:
Means of Case Processing Orientation Variables by State and County Size

	Punishment	Treatment
State	F=3.48*	F=5.85**
Michigan	3.17 ^a	4.18 ^a
Ohio	3.29 ^{a,b}	4.04 ^b
Indiana	3.45 ^b	4.05 ^b
Illinois	3.34 ^{a,b}	4.24 ^a
County Size	F=2.84+	F=.06
Metro	3.34	4.15
Mid- & Non-Metro	3.22	4.16

+ $p < .10$; * $p < .01$; ** $p < .01$

Note: Variables with different superscripts are significantly different.

**Table 10.5:
Means of Case Processing Orientation Variables by County**

		Punishment	Treatment
State	County	F=2.385**	F=3.841***
Michigan	MetroA	3.35 ^a	4.25 ^a
	MidMetroA	2.82 ^b	4.26 ^a
	NonMetroA	3.18 ^{a,b}	4.03 ^{a,b}
Ohio	MetroB1	3.27 ^a	4.11 ^{a,b}
	MetroB2	3.27 ^a	3.80 ^b
	MidMetroB	3.39 ^a	4.28 ^a
Illinois	MetroC	3.33 ^a	4.24 ^a
	NonMetroC1	3.32 ^{a,b}	4.30 ^a
	NonMetroC2	3.70 ^{a,b}	4.14 ^{a,b}
Indiana	MetroD	3.50 ^a	4.06 ^{a,b}
	MidMetroD1	3.34 ^a	4.05 ^{a,b}
	MidMetroD2	3.46 ^a	4.01 ^{a,b}

** p < .01; *** p < .001 Note: Variables with different superscripts are significantly different.

These bivariate correlations and analyses of variance reveal numerous differences on case processing orientation by two sets of variables – court contextual and individual characteristics. Court contextual variables represent the embeddedness of a juvenile court in particular local and state contexts that impact both individual orientations and court norms concerning case processing. Examining individual level variables, including position type and individual socio-demographic characteristics, allows us to gain an understanding of the relationships between individual characteristics and roles and case processing orientations. In order to give us a better understanding of the relationships between these individual and contextual factors and decision maker orientations, we developed a set of multivariate analyses to examine the effects of these variables while controlling for associated characteristics.

Multivariate Findings and Discussion

Case Processing Orientation

Our first two dependent variables of interest – punitive and treatment orientation – measure general attitudes toward delinquency case processing. Though seemingly mutually exclusive, as they represent two commonly juxtaposed philosophies of juvenile justice administration, our findings suggest that these are distinct but not contradictory orientations. Attitudes toward punishment and treatment are not significantly correlated (see Table 10.2), leading us to conclude that decision makers do not view them as lying at opposite and incompatible ends of a philosophical continuum. Decision makers tended to be more treatment than punitively oriented, but scored above the midpoint of identification on both case processing orientations. This suggests that treatment is still a primary orientation of the juvenile justice system, but that many decision makers also see punishment as a valuable part of delinquency case processing. It is likely that individual professionals alternately or simultaneously invoke these principles, depending on case-level or other contextual circumstances, in the formation of their orientations toward juvenile justice administration.

As shown in Table 10.6 (dependent variable = punishment) and Table 10.7 (dependent variable = treatment), OLS models clarify to some extent how professionals identify with these general orientations. Our model predicted much variation in punitiveness ($R^2 = .38$) and treatment ($R^2 = .45$) orientation. However, individual level variables accounted for a much larger proportion of explained variance in the punitive model ($R^2 = .26$) than in the treatment model ($R^2 = .07$). In the final model, only gender and defense attorney role are significantly related to treatment, with women and defenders being more treatment oriented, while age, gender, education, and defense attorney role remain significant in the punishment model, where older respondents, women, better educated respondents, and defenders being less punitively oriented. This difference may be partly attributable to the finding that decision makers generally embrace the treatment philosophy more than punishment, thus reducing the amount of variance to be explained in the former compared to the latter.

Table 10.6: Punitive Orientation

	Model 1		Model 2		Model 3	
	B(S.E.)	b	B(S.E.)	b	B(S.E.)	b
Age	-.014*** (.153)	-.183	-.0168*** (.004)	-.217	-.017*** (.004)	-.213
Female respondent	-.142** (.062)	-.093	-.165*** (.058)	-.107	-.174** (.058)	-.113
Non-white respondents	.125+ (.066)	.077	.053 (.062)	.032	.044 (.064)	.027
Experience	-.03 (.000)	-.004	-.001 (.000)	-.009	-.000 (.000)	-.010
Masters degree or above	-.262*** (.083)	-.169	-.234*** (.076)	-.151	-.235** (.077)	-.151
Parents	-.174*** (.066)	-.112	-.009 (.061)	-.057	-.089 (.061)	-.058
Judges ^a	-.097 (.131)	-.036	-.015 (.121)	-.005	-.008 (.122)	-.003
Prosecutors ^a	.516*** (.166)	.138	.186 (.158)	.050	.175 (.162)	.047
Defense attorneys ^a	-.735*** (.126)	-.286	-.486*** (.121)	-.190	-.463*** (.122)	-.180
Legal			.243*** (.050)	.191	.237*** (.051)	.186
Behavior			.178*** (.053)	.155	.169** (.055)	.147
Family			-.193*** (.048)	-.181	-.190*** (.049)	-.178
Victim			.252*** (.047)	.227	.268*** (.048)	.242
Sufficient programs					.162 (.115)	.075
Mid/Non-Metro County ^b					-.054 (.116)	-.031
Juvenile arrest rate (overall)					-.002 (.002)	-.095
% decrease in Part 1 arrests					-.004+ (.003)	-.103
Percent black in youth pop.					.006 .008	.063
Constant	4.148		2.209		1.974	
F	19.6***		23.5***		17.4***	
Adjusted R ²	.261***		.382***		.384	

+ p < .10, * p < .05, ** p < .01, *** p < .001

^a Probation officers excluded.

^b Metro counties excluded.

Table 10.7: Treatment Orientation

	Model 1		Model 2		Model 3	
	b(S.E.)	b	b(S.E.)	b	b(S.E.)	b
Age	.005 (.004)	.081	.003 (.003)	.051	.002 (.003)	.033
Female respondent	.228*** (.050)	.209	.153*** (.039)	.140	.155*** (.039)	.142
Non-white respondents	.231*** (.052)	.199	.070+ (.042)	.060	.035 (.043)	.030
Experience	.000 (.000)	-.011	.000 (.000)	-.017	.000 (.000)	-.008
Masters degree or above	-.038 (.066)	-.034	-.005 (.052)	-.044	-.081 (.052)	-.074
Parents	-.05 (.053)	-.052	-.002 (.041)	-.002	.010 (.041)	.009
Judges ^a	-.001 (.104)	.000	.098 (.082)	.051	.126 (.082)	.066
Prosecutors ^a	.028 (.132)	.011	.076 (.107)	.029	.089 (.109)	.034
Defense attorneys ^a	.261* (.101)	.143	.443*** (.082)	.243	.464*** (.082)	.254
Legal			.009 (.034)	.009	.014 (.034)	.015
Behavior			.224*** (.036)	.274	.191*** (.037)	.234
Family			.205*** (.033)	.270	.228*** (.033)	.300
Victim			.230*** (.032)	.291	.236*** (.032)	.300
Sufficient programs					-.094 (.077)	-.061
Mid/Non-Metro County ^b					.036 (.078)	.029
Juvenile arrest rate (overall)					.002+ (.001)	.113
% decrease in Part 1 arrests					.006*** (.002)	.197
Percent black in youth pop.					.003 (.005)	.047
Constant	3.848		1.327		1.172	
F	5.107***		29.416***		22.752***	
Adjusted R ²	.072***		.438***		.452**	

+ p < .10, * p < .05, ** p < .01, *** p < .001

^a Probation officers excluded.

^b Metro counties excluded.

Relationships between demographic characteristics and general orientations also reveal the embeddedness of juvenile justice professionals in broader social milieus. For example, gender differences were observed on both of the general case processing orientations, with women being less punitive and more treatment oriented than men. This finding may reflect gender role socialization. In so far as women disproportionately retain nurturing roles in U.S. society, it is likely that they will be more disposed toward treatment. On the other hand, the finding that women identify less with punishment may reflect an emphasis on individual responsibility in the socialization of their male counterparts (Brennan, 1997; Eretha & Healy, 1997).

An apparent age effect on general orientation is also noteworthy here. Controlling for individual, thematic, and contextual factors, we observed that younger practitioners are significantly more punitive than older professionals in this sample. This finding may reflect differences in the social and organizational contexts in which these decision makers came of age. In both popular discourse and policy, the response to juvenile crime has grown increasingly punitive during the 1980s and 1990s. Professionals who came of age in this period appear to be more attuned to a punitive response to juvenile crime than their older counterparts, reflecting, perhaps, a "changing of the guard" in juvenile justice administration.

While thematic controls helped to clarify the bases of professional orientations, they also raised additional questions. Particularly distinctive about the thematic categories are their varying emphases on the situational circumstances of juveniles. The family variable, for example, draws the greatest attention to the social context in which a youthful offender is raised. Also, while the behavior theme emphasizes individual deeds, this construct references peer group socialization (i.e. gang membership) as well. The positive relationship found between resonance with these themes and treatment orientation (see Table 10.7) may reflect a tendency for professionals who view family and individual behavior as important factors in delinquency case processing to attribute delinquency to situational factors. Indeed, the family resonance measure is not only positively related to treatment orientation, but negatively related to punishment (see Table 10.6). The legal theme, focusing more on past and present offenses, on the other hand, assigns no importance to circumstantial factors and is significantly and positively associated with punitiveness (see Table 10.6).

Less clear, however, is how the behavioral and victim resonances are related to professional orientation. Our victim and behavior controls were positively associated with both punitive and treatment orientations. Thus, concern about victims and characteristics of juvenile behavior can correspond with either case processing orientation. Sensitivity to victims, for example, can potentially translate into retributive (i.e. punitive) and/or restorative (i.e. treatment) orientations. Similarly, concern about individual behavior can correspond with attributes of risk and/or need. These findings add weight to our

conclusion that punitive and treatment orientations are not at opposite ends of a single continuum, but rather positions that can be held simultaneously. We will revisit these points later in this discussion.

Court context is also related to general professional orientations. Neither of the court organizational controls were significant in our models, a finding we revisit in the discussion of research implications. Community-contextual factors, however, and specifically trends in juvenile crime, were significantly related to general orientations. First, the percentage decrease in Part 1 juvenile arrests from 1994 to 1998 was strongly and positively associated with treatment orientation, and negatively but marginally associated with punitive orientations. This suggests that punitiveness may to some extent be in response to the severity of the juvenile crime problem, as measured by Part 1 arrests, and that professionals we sampled are more disposed toward treatment in contexts where serious juvenile crime has declined. The positive relationship between total juvenile arrest rate and treatment orientation confounds the relationship between crime patterns and professional attitudes somewhat, although a higher arrest rate could reflect a tendency in that context to bring more youth under the court's jurisdiction for treatment.

Accountability Priority

Logistic regression models were developed to estimate the effects of individual, contextual, and thematic measures on the prioritization of four accountability ideals by decision makers in our sample. By inquiring about specific policy preferences, this measure calls on professionals to translate their general and somewhat abstract inclinations into a coherent case processing strategy. Presented with this "forced choice," professionals overwhelmingly prioritized the treatment-based accountability definition (44 percent), followed by victim (22 percent), fairness (20 percent), and punishment-based (13 percent) ideals. Multivariate models identified demographic, thematic, and contextual predictors of support for each accountability ideal and, in some cases, expanded upon earlier findings. Results of the model estimating prioritization of the fairness-based accountability definition are presented in Table 10.8. Table 10.9 presents the model of the victim-based accountability ideal, Table 10.10 presents the rehabilitation-based ideal and, finally, Table 10.11 presents the model estimating prioritization of a punishment-based accountability ideal. Several findings regarding individual, thematic, and context effects on these attitudes are noteworthy.

First, with the exception of race, demographic variables were not strongly related to prioritizations of accountability. As with general orientations, for example, women were less likely than men to prioritize the punishment-based accountability definition. However, this effect was marginal, and there was no corresponding gender effect on prioritization of the treatment-based definition. In fact, the

most significant gender difference was observed in the relative disinclination of female respondents to prioritize the fairness-based accountability definition. Additionally, while age was not a significant predictor of prioritization of accountability ideals, an increase in experience was associated with a marginal decrease in support for the punishment-based accountability ideal.

Table 10.8: Accountability Ideal – Fairness Most Important

Independent Variable	Equation 1			Equation 2			Equation 3		
	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio
Age	-.016	.020	.984	-.021	.020	.981	-.024	.021	.977
Women	-.561*	.269	.571	-.597*	.278	.550	-.623*	.287	.536
Minority	.942***	.279	2.564	1.074***	.285	2.928	1.156***	.298	3.177
Experience	.001	.002	1.001	.001	.002	1.001	.002	.002	1.002
Masters	-.064	.370	.938	-.168	.379	.196	-.043	.389	.958
Parents	.421	.280	1.523	.356	.286	1.427	.361	.289	1.435
Judges ^a	1.214*	.510	3.368	1.140*	.521	3.128	1.093*	.531	2.982
Prosecutors ^a	.018	.843	1.019	.449	.887	1.566	.169	.912	1.184
Defense attorneys ^a	.826	.507	2.284	.576	.555	1.780	.453	.561	1.573
Legal Behavior				.053	.237	1.054	.063	.242	1.065
Family				-.094	.258	.910	.001	.264	1.001
Victim				.126	.234	1.135	-.020	.245	.980
Treatment Orientation				-.181	.241	.835	-.278	.250	.757
Punitive Orientation				-.241	.316	.786	-.128	.326	.880
Sufficient Programs				-.257	.220	.773	-.213	.222	.808
Mid/Non-Metro county ^b							-.480	.502	.619
Juvenile arrest rate (overall)							.362	.524	1.436
% decrease in Pt.1 arrests							-.008	.008	.992
Percent black in youth pop.							-.002	.012	.998
Constant							-.038	.035	.963
	-1.509*			0.834			4.274		
Nagelkerke R ²		.107			.124			.150	
χ ² Model Improvement (df)		29.50(9)***			4.95(6)			7.38(5)	

+ p < .10, * p < .05, ** p < .01, *** p < .001

^a Probation officers excluded.

^b Metro counties excluded.

Table 10.9: Accountability Ideal – Victims Most Important

Independent Variable	Equation 1			Equation 2			Equation 3		
	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio
Age	.013	.018	1.013	.021	.019	1.021	.029	.020	1.029
Women	.200	.252	1.222	.276	.264	1.318	.357	.274	1.429
Minority	-.958**	.305	.384	-.901**	.317	.406	-.840*	.331	.432
Experience	-.002	.002	.998	-.002	.002	.998	-.002	.002	.998
Masters	-.888*	.382	.411	-.848*	.391	.428	-.880*	.412	.415
Parents	.145	.270	1.156	.184	.276	1.202	.155	.287	1.168
Judges ^a	1.012*	.516	2.752	.925+	.526	2.522	.998+	.557	2.712
Prosecutors ^a	1.901**	.609	6.695	1.727**	.657	5.625	2.576***	.764	13.144
Defense attorneys ^a	-2.068+	1.081	.126	-1.904+	1.097	.149	-2.110+	1.100	.121
Legal Behavior				.422+	.247	1.525	.436+	.251	1.546
Family				-.458+	.253	.632	-.354	.268	.702
Treatment Orientation				.123	.226	1.130	.119	.241	1.127
Punitive Orientation				-.118	.291	.889	-.207	.308	.814
Sufficient Programs				.252	.213	1.286	.342	.221	1.407
Mid/Non-Metro county ^b							.456	.526	1.578
Juvenile arrest rate (overall)							-.748	.567	.473
% decrease in Pt.1 arrests							.010	.008	1.010
Percent black in youth pop.							.010	.012	1.010
Constant							-.070+	.040	.932
Constant	-1.295*			-2.556			-3.986		
Nagelkerke R ²	.152			.179			.238		
χ ² Model Improvement (df)	44.39(9)***			8.35(5)			18.81(5)**		

+ p < .10, * p < .05, ** p < .01, *** p < .001

^aProbation officers excluded.

^bMetro counties excluded.

Table 10.10: Accountability Ideal – Rehabilitation Most Important

Independent Variable	Equation 1			Equation 2			Equation 3		
	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio
Age	.007	.016	1.007	.006	.016	1.006	.005	.016	1.005
Women	.412+	.211	1.510	.344	.219	1.410	.341	.223	1.406
Minority	-.188	.222	.829	-.277	.235	.758	-.355	.243	.701
Experience	.002	.002	1.002	.002	.002	1.002	.003	.002	1.003
Masters	.517+	.271	1.678	.471+	.278	1.601	.413	.285	1.511
Parents	-.263	.223	.769	-.321	.232	.726	-.281	.234	.755
Judges ^a	-1.000*	.440	.368	-1.176*	.459	.309	-1.143*	.463	.319
Prosecutors ^a	-2.339**	.799	.097	-1.706*	.832	.182	-1.722*	.848	.179
Defense attorneys ^a	.593	.418	1.809	.186	.451	1.205	.272	.459	1.313
Legal Behavior				-.341+	.188	.711	-.351+	.191	.704
Family				.217	.202	1.242	.141	.212	1.151
Victim				.480**	.185	1.616	.546**	.192	1.725
Sufficient Programs				-.561**	.180	.571	-.536**	.184	.585
Mid/Non-Metro county ^b							-.170	.416	.844
Juvenile arrest rate (overall)							-.048	.430	.953
% decrease in Pt.1 arrests							.007	.007	1.007
Percent black in youth pop.							.007	.010	1.007
Constant							.025	.030	1.026
	-780			.222			-708		
Nagelkerke R ²	.106			.166			.179		
χ^2 Model Improvement (df)	35.04(9)***			21.60(4)***			4.65(5)		

+ p < .10, * p < .05, ** p < .01, *** p < .001

^aProbation officers excluded.

^bMetro counties excluded.

Table 10.11: Accountability Ideal – Punishment Most Important

Independent Variable	Equation 1			Equation 2			Equation 3		
	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio
Age	-.007	.022	.994	-.013	.022	.987	-.021	.024	.979
Women	-.368	.300	.692	-.387	.309	.679	-.530+	.322	.589
Minority	.288	.310	1.334	.243	.329	1.275	.231	.341	1.259
Experience	-.004+	.003	.996	-.004+	.003	.996	-.005+	.003	.996
Masters	.086	.384	1.090	.175	.398	1.192	.165	.411	1.179
Parents	-.159	.317	.853	-.080	.328	.923	-.029	.329	.972
Judges ^a	-1.986+	1.095	.137	-1.947+	1.119	.143	-2.186+	1.137	.112
Prosecutors ^a	.289	.697	1.335	-.764	.801	.466	-1.668+	.909	.187
Defense attorneys ^a	-1.536+	.700	.215	-1.400	.853	.247	-1.377	.868	.252
Legal Behavior				.3174	.300	1.374	.366	.314	1.442
Family				.670*	.310	1.954	.630+	.327	1.877
Victim				-.921***	.256	.398	-1.056***	.277	.348
Sufficient Programs				.049	.257	1.050	.175	.266	1.191
Mid/Non-Metro county ^b							.091	.586	1.095
Juvenile arrest rate (overall)							.768	.638	2.155
% decrease in Pt.1 arrests							-.007	.010	.994
Percent black in youth pop.							-.015	.015	.985
Constant							.0747+	.041	1.078
Nagelkerke R ²									
χ ² Model Improvement (df)									

+ p < .10, * p < .05, ** p < .01, *** p < .001

^aProbation officers excluded.

^bMetro counties excluded.

Occupational role was also moderately related to accountability ideals. Compared to the probation officer reference group, judges were more inclined to focus on fairness and victims, and prosecutors were more likely to prioritize accountability to victims. Conversely, the defense attorney role was marginally and negatively related to prioritization of the victim-based accountability ideal. As will be discussed further in the context of implications, it is noteworthy that professionals emphasize distinct accountability definitions. This finding is important not only for what it reveals about the ambiguity of the accountability ideal, but for its implications relating to the challenge of balancing accountability in juvenile justice administration.

Interestingly, controlling for other relevant variables, minority professionals were significantly more likely than their white counterparts to prioritize a fairness-based accountability definition. This finding supports earlier research on the general public which found that minorities, and particularly African Americans, are "keyed perceptually to the actions of justice system representatives" and thus inclined to possess unique orientations and priorities toward justice administration, including greater concern about system fairness (Young, 1991, p. 68). This finding is also noteworthy given that no race effect was observed in general orientations toward treatment and rehabilitation. The significance of race to prioritizations of system fairness suggests, as Davis et al. (1993) and others have observed, that the relevance of individual characteristics to professional orientation is partially contingent on the specific issues under consideration.

Thematic controls were not strongly associated with accountability prioritizations; however, findings here confirm and clarify earlier observations about the relationship between thematic resonance and professional orientation. First, family resonance was again positively associated with prioritizing a treatment-based response to delinquency, while negatively associated with support for the punishment-based accountability definition. Furthermore, individual behavior was positively associated with punishment-based accountability, but was not associated with any of the other ideals. The resonance of victim-related issues was also negatively associated with prioritizing the treatment accountability definition. The significance of these findings is confounded somewhat by the nature of the dependent variable and, specifically, the inability of respondents to prioritize multiple ideals. However, it is possible that these findings explicate the meaning of these thematic controls. When respondents were not forced to choose, victim and behavioral resonances can be positively related to both punitive and treatment orientations yet, when professionals are requested to prioritize distinct policy preferences, these themes edge toward a discourse of punishment.

In addition to being conditioned by decision maker characteristics and thematic resonances, prioritizations of accountability ideals were moderately related to the community contexts in which

professionals were employed. However, unlike in the case of general orientations, where trends in juvenile crime predicted attitudes, we observed a relationship between community demographics and accountability ideals. Specifically, a marginally significant positive association was observed between an increase in the percentage of minority youth in the county youth population and prioritization of the punishment-based accountability ideal. Further, minority youth concentration was negatively associated with prioritization of the victim-based ideal, while controlling for relevant individual, thematic, and contextual variables. Though specifically racialized, the minority concentration measure may serve as a proxy for broader socio-economic characteristics of the county, thus making it difficult to assign a specifically racial meaning to the effect of this variable. However, it is reasonable to conclude that, controlling for other factors, professionals are both more disposed to prioritize a punitive accountability ideal and to de-emphasize a victim-based response to juvenile crime in disadvantaged community contexts. Both findings raise troubling questions about the quality of juvenile justice administration in poor and minority communities.

Minority Overrepresentation

Similar concerns are raised by our final model examining the degree to which decision makers consider minority overrepresentation a serious problem in juvenile justice (Table 10.12). We employ this variable to indirectly measure professional orientations toward system accountability. As discussed earlier, the federal government issued a mandate in 1992 for states to identify and reduce levels of minority overrepresentation in their juvenile justice systems. Minority overrepresentation remains a problem in each of the states surveyed (Sarri et al., 1998).

Several observations regarding orientations toward minority overrepresentation are worthy of note. First, two individual-level effects observed earlier are similarly related to variation on this dependent variable. Older respondents, on average, are more inclined than their younger counterparts to express concern about minority overrepresentation. This suggests once again that age corresponds with significant differences in cultural orientation, both with respect to the specific institutional history of juvenile justice (i.e. rehabilitative ideal) and in terms of general political consciousness. Age-based differences in sensitivity to minority overrepresentation may reflect not only varying familiarity with the policy intervention to address this problem, but also a relatively greater sensitivity to issues of civil rights and social justice, shaped in part by socialization during the 1970s. Indeed, respondents in the 50 years old and older age-group were most likely to prioritize the fairness-based accountability definition, and respondents between forty and fifty years old (born in the 1960s) were most likely to consider minority overrepresentation a serious problem.

Table 10.12: Overrepresentation Of Minority Youth

Independent Variable	Equation 1		Equation 2		Equation 3	
	B(S.E.)	b	B(S.E.)	b	B(S.E.)	b
Age	.017* (.008)	.145	.013 (.008)	.106	.014+ (.008)	.116
Women	.161 (.107)	.068	.102 (.108)	.043	.110 (.109)	.046
Non-white respondents	.490*** (.113)	.196	.459*** (.113)	.183	.498*** (.117)	.199
Experience	.000 (.001)	.000	-.000 (.001)	-.010	-.000 (.001)	-.004
Masters	.189 (.142)	.079	.105 (.141)	.044	.153 (.143)	.064
Parents	.019 (.113)	.008	-.017 (.112)	-.007	-.031 (.112)	-.013
Judges ^a	-.368 (.224)	-.090	-.299 (.220)	-.073	-.335 (.222)	-.082
Prosecutors ^a	-.947*** (.293)	-.158	-.818** (.298)	-.137	-.816** (.308)	-.136
Defense attorneys ^a	.443* (.219)	.110	.424+ (.233)	.106	.381 (.235)	.095
Legal			-.082 (.094)	-.042	-.087 (.095)	-.044
Behavior			-.033 (.103)	-.019	.011 (.106)	.006
Family			.058 (.093)	.035	.017 (.096)	.010
Victim			.327*** (.095)	.192	.297** (.097)	.174
Punitive Orientation			-.321*** (.087)	-.209	-.316*** (.087)	-.206
Treatment Orientation			.083 (.128)	.038	.126 (.130)	.058
Sufficient Programs					-.160 (.210)	-.048
Mid/Non-Metro county ^b					-.282 (.213)	-.106
Juvenile arrest rate (overall)					-.004 (.003)	-.106
% decrease in Pt.1 arrests					-.008+ (.005)	-.123
Percent black in youth pop.					-.024 (.015)	-.169
Constant	2.461***		2.492***		4.142***	
F	6.311***		6.066***		4.869***	
Adjusted R-Square	.093***		.140***		.142	

*** p<.001, ** p<.01, * p<.05, + p<.10

^a Probation officers excluded.

^b Metro counties excluded.

The most significant individual-level predictor of sensitivity to minority overrepresentation, however, is race. Controlling for other decision maker characteristics, thematic resonances, and contextual factors, minority professionals were significantly more inclined to consider this a serious problem in juvenile justice. While not surprising, this finding supports earlier observations of minority (especially African American) sensitivity to issues of fairness in justice administration, both in this research and elsewhere (Young, 1991). This finding also supports the conclusion that the content of the issue under consideration may condition the salience of individual-level factors (i.e. race) in the development of professional orientations (Davis et al., 1993).

Prosecutorial role was another important individual-level predictor of orientations toward minority overrepresentation. Compared to probation officers, prosecutors in our sample were significantly less likely to consider minority overrepresentation a serious problem. This finding is especially important for two reasons. First, while it may be assumed that prosecutorial insensitivity to minority overrepresentation reflects their overriding concern with punishing illegal behavior, the prosecutorial role retains a strong and independent effect after controlling for these and other thematic concerns. While a statistically strong and negative relationship is observed between punitiveness and sensitivity to minority overrepresentation, the prosecutorial effect remains significant at only a slightly diminished level in the full model. Secondly, as will be revisited in the conclusion, prosecutors increasingly possess a tremendous amount of discretionary power in juvenile justice administration, and significantly addressing the problem of minority overrepresentation will likely require their cooperation.

Interestingly, resonance with the victim-related theme was associated with an increase in sensitivity to the problem of minority overrepresentation. This finding points again to an apparent flexibility of the victim construct in forming professional orientations toward juvenile justice administration, and challenges our earlier assertion that victim resonances are primarily associated with punitiveness at the point of policy application, as, in this analysis, punitive orientation is negatively related to the belief the minority overrepresentation is a problem. This finding suggests that minority overrepresentation may itself be viewed as a form of victimization, at least by those professionals particularly sensitive to victim-related issues.

Finally, we observed two marginally significant contextual effects on orientations toward minority overrepresentation. First, controlling for other relevant variables, a percentage decline in serious juvenile crime was negatively associated with sensitivity to minority overrepresentation. While professionals in contexts with declining serious crime rates were found to be particularly disposed toward treatment, this model controlled for the resonance of treatment themes and found no effect, thus ruling out

this interpretation. While our data cannot verify this conclusion, it is possible that levels of minority overrepresentation are actually lower in courts with declining serious crime rates.

Similarly, minority youth concentration was negatively related to perceptions of the seriousness of minority overrepresentation. On the one hand, this finding raises concern about sensitivity to justice administration in minority community contexts, especially in view of the finding that victim-based accountability is de-emphasized, while punitive accountability ideals are given emphasis in these contexts. However, in view of the proportional basis of the minority overrepresentation concept, it is also somewhat understandable that minority concentration is negatively associated with sensitivity to this problem.⁶ Put simply, in counties with proportionally larger minority youth populations, overrepresentation in juvenile justice is likely to be less pronounced, statistically speaking, than in counties with lower levels of minority concentration. Nevertheless, there is a basic civil-rights dimension to this problem which would justify a professional assigning as much seriousness to a low or moderate level of overrepresentation as to a high level of disproportionality.

IMPLICATIONS FOR RESEARCH AND POLICY

This chapter has been concerned with determining how individual-level, thematic, and contextual factors are related to professional orientations in juvenile justice administration. Our analyses considered relationships between these variables and three distinct categories of attitudes: general orientations toward delinquency case processing, prioritizations of competing accountability definitions, and sensitivity to the problem of minority overrepresentation. By focusing on several types of attitudes, this research has provided insight into how correlates of professional orientation vary in relation to the types of issues decision makers consider. Having observed significant variation in the effects of these predictors on each category of attitudes, we conclude by highlighting implications for future research and policy in juvenile justice administration.

Before considering the implications of this research, several limitations should be noted. First, several of our demographic control variables, and especially race, were marred by high levels (10-15 percent) of missing data. Although the demographics of our overall sample are quite similar to the sample in our regression models, these missing data require us to report our findings with caution. The amount of missing data is attributable to several factors, including the lack of control in a self-administered survey and, most notably, a concern among professionals that they may be identified

⁶ The DMC Mandate defines overrepresentation as a situation where the proportion of minority youth in the juvenile or adult justice system exceeds the proportion of minority youth in the state or local community context.

(despite our assurances to the contrary) by their responses on the demographic controls (i.e. race, gender, age, and marital status). These missing data do not occur systematically.

An additional limitation concerns the sampling of various types of professionals, a problem attributable to research design as well as the receptivity of respondents. Our sampling and survey scheduling procedure relied heavily on the assistance of court administrators or similar organizational management personnel in each court. We soon realized, however, that these actors possessed uneven influence over the schedules of various practitioners. This resulted in a relative ease in surveying probation officers but more difficulty surveying judges and especially attorneys. The sample size of each group speaks partially to this limitation.

However, we also encountered very different levels of cooperation from potential respondents. Overall, probation officers and judges were highly accommodating in completing our surveys. Whereas defense attorneys were fairly cooperative in most cases, prosecutors, except in limited cases, were the least cooperative in completing the survey. Consequently, our sample of prosecutors was much smaller than even defense attorneys, leading us to recommend caution in the interpretation of occupational role effects in our models. We believe, however, that this experience is a finding in itself, highlighting a resistance among prosecutors to discuss issues concerning juvenile justice administration.

These limitations notwithstanding, we are confident that our models provide accurate and useful insight into the case processing orientations of decision makers we surveyed. Of course, our findings are not generalizable to justice administration professionals in other contexts or to general demographic groups. Our analyses produced several findings with potential implications for future research and policy in juvenile justice administration. It is to these implications, beginning with those for research, that this discussion now turns.

First, we observed an interesting age effect on professional orientations toward justice administration which future research might seek to further clarify. We observed that older decision makers are less inclined to support a punitive response to delinquent behavior, and more inclined to view minority overrepresentation as a serious problem, than are their younger counterparts. Level of experience was also negatively associated with punitiveness, though at a low level of significance. We interpreted these findings to suggest that older decision makers possess a unique socialization regarding juvenile justice, based more in the traditional rehabilitative model, and a distinct political consciousness based on their coming of age in more liberal social contexts. Future research will hopefully disentangle this age effect further, perhaps by looking more carefully at the issue of experience, by performing a cohort analysis, or by obtaining direct measures of political consciousness.

Our effort to utilize thematic controls also presents a number of challenges for future research. First, there is clearly a need to use more specific and thus interpretable thematic controls in order to

explicate their relationship to professional orientation. The religiosity measure employed in previous research is an example of the type of control needed. These measures can likely be identified by referencing social-psychological literatures and other non-criminological research where concerted effort has gone into explicating the interpretive contours and specific meaning of a given concept.

Additionally, our finding that court contextual controls – sufficiency of court resources and court size – were not significantly related to any of the dependent variables presents important research implications. This finding suggests that court organization may not be as strongly related to professional orientations as to outcomes in case processing. For example, court contextual effects may influence case processing norms or resource structures, thereby “going around” individual professional orientations to influence case processing outcomes. In any event, it is necessary to reconsider and improve the operationalization of the potential relationship between court context and professional orientation. Ethnographic research may be useful in illuminating the relationship between the court context and decision maker orientations.

Our research findings have several important implications for juvenile justice policy. Particularly noteworthy is the finding that decision makers tended to be much more treatment oriented than punitively inclined, but scored above the midpoint on both of these case processing orientations. This suggests that treatment is still a primary orientation of professionals in juvenile justice administration, and that treatment and punishment are not mutually exclusive orientations. Although decision makers may be mainly oriented towards treatment, many also see punishment as an important part of addressing juvenile delinquency.

This finding suggests to us that the growing punitive response to youthful offenders in current legislation and policy may be imbalanced and inappropriate. Professionals are inclined to ground their interventions in principles of rehabilitation, but reserve a capacity to respond with more punitive sanctions. Policy makers should be sensitive to this dual capacity, and develop policy which equips professionals to use both rehabilitative and punitive principles in their response to juvenile delinquency, in combinations which decision makers determine are most appropriate for the case. The recent windfall of punitive reforms, many of which restrict the discretion of decision makers, work against the development of a more nuanced and reasonable framework of juvenile justice administration. At the very least, it is clear that strictly punitive reforms are out of line with prevailing professional orientations.

Another finding in this research with important policy implications concerns the issue of system accountability. Previous research suggests that the accountability ideal in juvenile justice administration is imbalanced, as professionals, “are more willing to hold juveniles responsible for their acts than they are to hold themselves accountable for what they do to these juveniles” (Rossum et al., 1995, p. 923). This

conclusion finds substantial though qualified support in the present research, specifically in relation to the problem of minority overrepresentation.

Despite a federal mandate in 1992 to address minority overrepresentation, and the growth and endurance of this problem toward the end of the twentieth century, juvenile justice professionals are hardly unequivocal in their concern. Perhaps not surprising, but certainly disconcerting, is that minority (especially African American) decision makers were far more inclined than their white counterparts to consider minority overrepresentation a serious problem. Older decision makers were also significantly more likely to express sensitivity to this issue than their younger counterparts. Prosecutors, moreover, were substantially less likely than judges, probation officers and defense attorneys to consider minority overrepresentation a problem. Indeed, as reported in Chapter 9, a majority of prosecutors (62%) disagreed that minority overrepresentation is a serious problem. As noted earlier in the discussion, this finding is disquieting in light of the fact that prosecutorial cooperation will likely be required to significantly impact this problem.

These findings raise a number of challenges for policy makers to consider in combating minority overrepresentation. At a very basic level, they illuminate a need to do more work generating awareness about the DMC Mandate and cooperation with its agenda, particularly among white and young decision makers, as well prosecuting attorneys. A more complex challenge awaits, however, in seeking greater balance in professional orientations toward individual and system accountability. For example, while prosecutors prioritize system accountability to victims, and individual offender accountability, they evidence particularly low levels of concern about system accountability to individual offenders, both in terms of treatment priorities and concerns about system fairness. We have also noted the finding that prosecutors were least cooperative in sharing information about their participation in juvenile justice administration, a finding we believe speaks to a gap in system accountability. The importance of this imbalance is exacerbated by the increasingly prominent prosecutorial role in juvenile justice administration.

While limited by our sample sizes, our analysis observed quite distinct professional orientations among judges, probation officers, prosecutors, and defense counsel, especially with respect to accountability ideals. A clear policy implication of this is that strategically redistributing power and responsibility among categories of practitioners can aid in promoting a more balanced accountability ideal. Indeed, our data suggest that defense attorneys bring a distinct advocacy position to delinquency case processing and could therefore potentially counter prosecutorial orientations in a strengthened role as a voice for children.

Similarly, we found clear evidence that some demographic groups of professionals are more inclined than others to promote a balanced accountability ideal. While this appears to the case with older

professionals, it is particularly evident in the case of minority practitioners. For various historical and social contextual reasons, minority professionals are particularly attuned to issues of fairness and equity in system administration. This was evident here in their prioritization of a fairness-based accountability definition and far greater support for system accountability to minority overrepresentation. Minority decision makers were not, however, statistically different from others in their general orientations toward treatment and punishment.

Taken together, these findings suggest that minority professionals work in the mainstream of delinquency case processing, while bringing specific concerns to issues of system administration. Policy makers should consider that minority professionals likely represent a valuable resource in juvenile justice administration, especially in so far as fomenting a more balanced accountability ideal is concerned. Specifically, this suggests that greater emphasis should be placed on the Affirmative Action component of the DMC Mandate, and that efforts should be made not only to hire more minority professionals, but to promote them to positions of leadership in juvenile court communities.

In closing, this chapter has observed several relationships between the characteristics of practitioners and their orientations toward juvenile justice. These relationships vary significantly according to the attitudes under consideration. While our analysis leaves much for future research to consider, we have observed several trends with immediate policy relevance. Most notably, we propose that efforts be undertaken to promote a more balanced accountability ideal in juvenile justice administration.

CHAPTER 11

SUMMARY AND RECOMMENDATIONS

The juvenile court has now existed as a social and legal institution for children in the United States for over one hundred years. Throughout its history, the court has been subjected to a variety of factors that have resulted in substantial changes in the mission and administration of juvenile justice. A brief reading of the contemporary literature on the juvenile court reveals an institution that is considerably different than as originally conceived. This report examined decision making in the juvenile justice system through the context of structured decision making and accountability in order to gain an understanding of the administration of juvenile justice in the contemporary juvenile court. Our research uncovered a number of key points that must be considered by researchers, policy makers, practitioners, and the public if the juvenile court is to function as an effective institution for children.

SUMMARY

The juvenile court was established on the basis of three assumptions. First, children are developing physically, mentally, socially, and morally throughout their childhood and adolescence, and, therefore, juvenile offenders should be provided with treatment and rehabilitation to maximize their development into competent, law-abiding, and socially responsible adults. Second, the adult criminal justice system cannot provide for the developmental needs of children and youth because of its primary focus on punishment and retribution and lack of attention to the needs of youth. Third, the delinquency of children and youth is primarily the result of environmental factors in their family and community rather than acts of free will and choice. Based upon these three assumptions, the juvenile court was instituted as an informal social and legal institution for children that was structured to provide substantial discretion for individual decision makers. The court existed as part of a larger system of public and private service alternatives, training schools, and other agencies and organizations working with delinquent children. These three assumptions still exist today to justify a separate justice system for children; however, they have been weakened by factors at the federal, state, and local level. Given these changes, our study sought to understand the various factors that impact decision making and the administration of juvenile justice in the juvenile justice system.

The contemporary juvenile justice system, of which the juvenile court is an integral part, is a highly interdependent set of organizations at the federal, state, and local levels that does not always function effectively because of conflicting goals and interests. It has long been recognized that the local community's active participation and support are critical for the success of the juvenile justice system, yet

federal and state legislation and resources have come to dominate and inhibit local communities from fulfilling their critical roles in the development and social control of young people. Part of the reason for this development appears to lie in the reduced role of the juvenile court as the dynamic leader in the juvenile justice system.

Our report demonstrates that the administration of juvenile justice varies both within and across states and is impacted by a number of factors. Factors affecting case processing include legislation, court and system organization, resource structures and allocation, the local community context (such as crime, poverty, and the organization of services for children and youth), and prevailing discourses concerning juveniles and juvenile crime. The impact of these factors varies across states and courts and represents the embeddedness of juvenile justice within specific contexts. Within these contexts, courts develop case processing norms and orientations that are shaped by these contexts, as well as by the roles and orientations of different decision makers, by relationships and power structures within the court, and by the use of different decision making mechanisms such as structured decision making. Thus, we can understand juvenile courts as “communities” embedded in state and local contexts that impact the court’s culture, norms, and practices.

Juvenile code changes over the last two decades are one of the primary factors that have affected juvenile courts. These changes have been widespread and have moved the court toward being a considerably more punitive and control-oriented institution in many respects. They have eased the process of transferring juveniles to the adult criminal court, have enacted determinant, mandatory minimum, and blended sentencing provisions, have made correctional placements more punitive, and have opened access to juvenile records and proceedings to law enforcement, schools, other agencies, and the public. Additionally, they have seemingly changed the mission of juvenile justice. Whereas the juvenile court was originally founded on the ideal of rehabilitation, code changes have shifted its mission toward the principle of “accountability.”

The impact of code changes and other factors on the administration of juvenile justice, as well as the variation among courts, is apparent in the case processing data we have presented for each of the states and courts. Similar to national trends, case processing has increased throughout the 1990s in each of these states and in most of the courts in the study. This includes referrals handled informally (diverted) and formally (petitioned), admissions to detention (both secure and alternatives to detention), probation caseloads, and commitments to residential placements. These trends are occurring in light of decreases in juvenile crime in many jurisdictions and indicate extensions of formal control that previously were handled in other social and/or community institutions or were otherwise not considered serious enough to require intervention.

Table 11.1: Case Processing Rates in Metro Counties

	Year	Youth Population	Juvenile Arrest Rate per 100,000	Petitions	Petition Rate per 100,000	Detained	Detention Rate per 100,000	State Commitments	Commitment Rate per 100,000	Commitments per 100 Petitions
MetroC	1994	485,632	12,740	21,078	4,340	8,862	1,825	433	89.2	2.05
	1995	485,878	13,080	20,343	4,187	9,912	2,040	457	94.1	2.25
	1996	491,798	12,170	18,263	3,714	9,262	1,883	821	166.9	4.50
	1997	495,798	11,010	16,735	3,375	8,027	1,619	831	167.6	4.97
	1998	494,030	9,660	14,740	2,984	8,279	1,676	913	184.8	6.19
MetroA	1994	210,018	5,860	NA	NA	4,314	2,054	NA	NA	NA
	1995	207,268	5,580	9,666	4,664	3,372	1,627	879	424.1	9.09
	1996	207,663	5,110	9,831	4,734	2,998	1,444	1,028	495.0	10.46
	1997	212,096	4,710	9,290	4,380	3,059	1,442	1,129	532.3	12.15
	1998	222,239	3,760	9,013	4,056	1,586	714	1,076	484.2	11.94
MetroB1	1994	146,514	9,980	NA	NA	NA	NA	NA	NA	NA
	1995	145,804	10,500	9,624	6,601	4,916	3,372	614	421.1	6.38
	1996	146,707	11,350	10,244	6,983	5,350	3,647	519	353.8	5.07
	1997	147,123	11,040	8,812	5,990	5,578	3,791	463	314.7	5.25
	1998	146,060	10,120	14,024	9,602	7,610	5,210	452	309.5	3.22
	1999	144,957	NA	10,464	7,219	9,560	6,595	400	275.9	3.82
MetroB2	1994	96,000	17,010	8,476	8,829	6,953	7,243	394	410.4	4.65
	1995	95,667	16,480	NA	NA	NA	NA	NA	NA	NA
	1996	96,284	20,010	7,855	8,158	7,190	7,467	330	342.7	4.20
	1997	96,540	9,460	10,658	11,040	7,427	7,693	294	304.5	2.76
	1998	95,098	9,010	10,347	10,880	7,669	8,064	265	278.7	2.56
	1999	93,656	NA	7,700	8,222	6,590	7,036	239	255.2	3.10
MetroD	1994	84,435	13,790	6,414	7,596	NA	NA	584	691.7	9.11
	1995	84,563	14,020	6,895	8,154	NA	NA	802	948.4	11.63
	1996	85,108	14,530	7,741	9,096	8,769	10,303	903	1,061.0	11.67
	1997	85,189	14,130	NA	NA	8,550	10,037	986	1,157.4	NA
	1998	85,189	14,750	NA	NA	8,670	10,177	920	1,080.0	NA

The variability among these court communities and their embeddedness in specific contexts is indicated in Table 11.1, which compares case processing rates in five Metro courts in the four states. Each of these courts is situated in an urban area and is affected by high rates of crime, poverty, and single parent families, and other contextual factors. However, this table indicates that tremendous variation exists in the ways that these courts process and manage cases. Whereas MetroC has decreased the flow of cases into the system through formal petitions from 1994 to 1998, other courts have either increased their total petitions¹ or these rates have remained fairly steady and high in comparison. In addition, the relationship between total juvenile crime rate and petitions is not consistent across these courts. All of the courts except for MetroC petition a substantial number of status offenders in a given year. State level commitments have increased in three courts, while they have decreased in both MetroB1 and MetroB2. This is a result of changes in resource allocations in this state. However, these state commitments do not include private county-funded or community-based residential placements, which are used frequently in these two courts, as well as in some of the other courts. In sum, Table 11.1 indicates the importance of understanding the impact of different factors at the state, local, and court level on case processing.

Given this variation between courts, it is necessary to consider the nature of juvenile courts and the impact of various factors when attempting to understand case processing practices. This includes attempts, such as structured decision making mechanisms, to affect these practices. As discussed in this report, structured decision making exists as a mechanism to promote a variety of goals in case processing – rationality, fairness, equity, and proportionality – and is increasingly used in juvenile justice today. One form of structured decision making – risk assessment – has a long history in criminal justice and consists of many models measuring a variety of different variables. However, as indicated in the report, the intended and actual use of structured decision making varies considerably across courts. Courts vary in whether they use structured decision making, the type of instruments they use, whether they actually use the instruments as intended, and how they value different instruments. Thus, the use and success of structured decision making in juvenile justice administration is dependent upon the nature of these court communities because they differ considerably in the value they attribute to different decision making technologies and practices.

Our report also indicates the problematic nature of utilizing accountability as the organizing principle of juvenile justice administration. Accountability can be expressed in several forms – individual, system, and community – that distributes responsibility for antisocial behavior and its treatment among a variety of agents. Despite the necessity of conceptualizing accountability as an

¹ Total petitions and petition rates include status offenses. Every court except MetroC processes a significant number of status offenses (over 1,000 in each court) in its overall caseload.

expression of these various forms, the general discourse around and policy response toward juvenile crime has been to focus on holding individuals “accountable” for their behavior. Furthermore, our report found that tremendous variability also exists in how decision makers define accountability and prioritize different accountability definitions. Some of this variation can be attributed to individual characteristics and roles and contextual factors, which further confounds the use of accountability as an organizing principle of juvenile justice.

THE FUTURE OF THE JUVENILE COURT

All of the juvenile courts in our sample operate or are linked with a range of services, and decision makers in these courts still publicly adhere to rehabilitation as their primary case processing orientation. However, profound shifts in the mission and operation of the court have increasingly moved it toward functioning as an institution of control and punishment. Accountability as an organizing principle of juvenile justice remains problematic as currently articulated and implemented because it focuses almost exclusively on individual rather than system or community accountability. Structured decision making offers the promise of a more rational, equitable, and fair system, but is not widely used or fully implemented in many court contexts, nor has it been systematically evaluated except in a few jurisdictions. Code changes have shifted boundaries between the adult and juvenile courts and have primarily acted to facilitate this shift to a punitive institution. Increases in case processing and incarceration further indicate the changing nature of juvenile justice and decision making, as court practices become increasingly punitive. Addressing gender-related issues operates as a significant challenge as the number of females in the system grows, with substantial increases in those processed for status offenses, domestic violence, and substance abuse. Moreover, we neglect the role of gender in young *men*'s lives as we seek to address their behavior. Substantial minority overrepresentation in all stages of the juvenile justice system continues to present a problem of enormous importance to our society that needs to be addressed.

Several scholars have taken these and other aspects of the court to signify that it is a “broken” institution and cannot, or should not, be fixed given contemporary society's notions of adolescence (Feld, 1999; 1997; Ainsworth, 1995; 1991). They argue that it operates as a “miniature criminal court” without providing juveniles with sufficient due process rights in either theory or practice and that juveniles face the “worst of both worlds” because they are not adequately represented and do not have the due process protections afforded to adults, such as the right to trial by jury. Moreover, many face punitive treatment, often in the name of rehabilitation. Thus, they believe the juvenile court has been “transformed, but not reformed” (Feld, 1999). Furthermore, these commentators argue that the court cannot be reformed because the problems of the juvenile court run as deep as the fundamental premise of the court to provide

both social welfare and social control (Feld, 1999) or the problematic existence of a two-tiered system of justice for children and adults (Ainsworth, 1995). Consequently, they argue for the abolition of the juvenile court and the processing of juveniles in the adult criminal court.

The juvenile court is not without faults. In fact, this report documents numerous problems with the administration of juvenile justice in these twelve courts. Nonetheless, a juvenile court is necessary in our society to recognize the vast differences that exist between juveniles and adults. While abolitionists argue that an "integrated" adult criminal court will account for these differences, our reading of the available literature indicates that the criminal court does not account for the significant differences between children and adults, such that juveniles often end up being treated more punitively. The effects of current policies to treat more children as adults are largely undetermined, and we are just now beginning to focus on the long term impacts of these policies. Although abolitionists argue that a single justice system will better serve the interests of both juveniles and adults, it is difficult to imagine tremendous reform given the deep problems that exist in the criminal court and prevailing discourses of crime and punishment.

Consequently, it is vital that the nation retain its commitment to recognizing differences between children and adults by maintaining separate justice systems. The juvenile justice system offers a number of advantages to criminal court processing. *First*, it offers a distinct recognition of differences between children and adults (Lewis, 1999). The creation of the juvenile court was a watershed event in the modern recognition of the child and adolescent, and, although our conceptions of childhood and adolescence are subject to considerable change, it remains important today to retain these differences in our justice systems. Most juveniles differ from adults in cognitive and emotional maturity, culpability, physical development, life experiences, and opportunity, and we believe that these differences should be recognized in our justice systems as they are in many of our other laws, such as those governing voting, driving, drinking, smoking, and holding elected office.

Second, the juvenile justice system offers a range of services and programs for juvenile offenders. Despite criticism of and a move away from the rehabilitative ideal, juvenile courts in our sample still provide these programs and services and still adhere to rehabilitation as a primary orientation. It remains important that youthful offenders receive education, drug and alcohol treatment, therapy, work opportunities, and many other services. Punishment is used in the name of treatment in many parts of the system, and thus critical attention must be paid to the nature and effects of treatment-oriented interventions, but treatment itself is not mutually exclusive with a juvenile justice system that provides due process, fairness, and equity. The programs and services of the court do attempt to address a child's needs in many cases. For the most part, these aspects are absent from the adult criminal court and a separate system of justice is necessary to ensure that the needs of children are addressed.

Third, the juvenile court still allows for an “individualized” assessment of the needs of each child (Lewis, 1999). In practice, this assessment varies across courts, but the attempt to address the needs of juvenile offenders is unique to the juvenile justice system. This includes the recognition that the needs of children are not isolated from those of their families and/or communities. Consequently, many juvenile courts exist as parts of integrated family court systems that can deal with these larger issues. These include abuse and neglect (which is often linked to delinquency), custody, and other issues not addressed in the criminal justice system.

Fourth, this study uncovered numerous committed juvenile justice professionals, including judges, probation officers, defense attorneys, prosecutors, court administrators, community advocates, and other members of the state and local juvenile justice systems. Although the degree of commitment and juvenile justice ideals of these professionals vary, most courts maintain an active desire to improve the lives of the children under their charge. Many of these professionals are trained specifically as juvenile specialists and have substantial experience dealing with youthful offenders. Although further resources and training are necessary, particularly for attorneys, and incentives need to be created to maintain a pool of experienced professionals, an adult court will not retain this specialized model.

Fifth, the criminal justice system alternative is a largely uncharted terrain that poses considerable difficulties for reform. Available data indicate that most juveniles waived to the adult system face highly punitive sanctions that do not differ from those of their adult counterparts. Most abolitionist arguments focus on a total or substantial revision of the adult criminal court process. However, reform of the criminal justice system encounters many of the same problems as reform of the juvenile justice system, which abolitionists have posited as insurmountable. Tremendous variation also exists in the norms and values of criminal court communities and the ability of law or other reforms to change these norms is highly dependent on these individual communities. Additionally, current discourses of crime and punishment suggest that legislatures will not be overly generous with youth discounts or with other reforms specific to youth. The power of discourses of crime and punishment cannot be neglected when we consider the abolition of the juvenile justice system.

Consequently, society must support the continuation of the juvenile court and justice system, but advocate for open discussion of a model for its future. Similar to Margaret Rosenheim’s call for a reconceptualization of the juvenile court in 1976, it is imperative that at this time we reconceptualize the mission of the juvenile justice system. We end this chapter with recommendations that are intended to offer ways that juvenile courts can better serve their intended beneficiaries – children, communities, and the public interest. These recommendations capture the major points that we uncovered during the course of this study and offer our attempt at improving this vital institution. We conclude with our conception of

how the involvement of communities in the juvenile court is essential to improving the provision of justice.

RECOMMENDATIONS

1. The Overprocessing of Youth in the Juvenile Justice System

One of the primary findings in our report concerns the overprocessing of youth in the juvenile justice system. Increasingly, the juvenile court is becoming the primary child-oriented institution to address society's problems and promote youth development. The history of the juvenile court tells us that it is not the proper place to provide for all aspects of the education, social welfare and management of children. Many of the courts in our study were overwhelmed with the overprocessing of children for a variety of criminal and status offenses that included many minor offenses (unruly, status, misdemeanors, and school misbehavior). The considerable time and resources required to process such offenses leave juvenile courts unable to address "serious" crime. Although the juvenile crime rate has declined since 1994 in all of the states studied, the numbers of youth processed by these juvenile courts have continued to increase and are quite substantial in many of the courts. This is consistent with national data, which show substantial increases in the number of children processed in the juvenile court. We uncovered several reasons for this increase and present a number of solutions that must be considered to address this problem.

- *Increased processing of youth for unruly and/or status offenses in three of the four states.*

In some courts the total percentage equaled a third of all cases and for females it was often half.

We recommend that these cases be handled by voluntary associations, churches, and agencies in the community through mediation and diversion from the court and community outreach efforts. In some of the counties that we studied, middle-class suburban communities dealt with these minor misbehaviors on an informal basis using restorative justice approaches that demonstrated what can be accomplished with active community support. We recommend that resources and other incentives be provided to community agencies to offer more outreach and restorative services, such as youth service bureaus and community centers, in at-risk neighborhoods.

- *The decline or elimination of the police policy of "warn and release" and/or station adjustments.* There is great variation in arrest rates across communities. Many have successfully demonstrated that "warn and release" policies can be quite effective and

have the added benefit of eliminating expensive court processing that often results in dismissal or withdrawal of charges.

We recommend that communities work with police departments to develop policies and guidelines to provide police with more discretion in court referrals. This necessitates that police departments be sensitive to issues of race, gender, and class in utilizing this discretion. With community policing, they can call upon voluntary community resources to provide supervision and guidance to children.

- *Youth are arrested, detained and have an initial hearing only to have their case dismissed, withdrawn, or nollied.* These cases take up the time and resources of the court and result in the juvenile having an unnecessary court record and offer mixed messages about accountability.

We recommend that courts have explicit intake criteria about the types of cases that go on to arraignment and that they maintain a system of alternatives to formal processing. Additionally, we recommend that courts examine trends in the processing of different types of cases in order to track changes over time and evaluate the appropriateness of bringing particular cases into the formal court process. We also recommend that there be greater defense attorney participation at the time of the initial charge so that the youth can be assured of due process protection.

- *Increased ambiguity in state laws with respect to selected offenses.* This is illustrated by one state in the study which has an extremely vague law in the criminal code regarding "menacing." In all of the three counties in that state, its implementation has resulted in the processing of more than 1,000 cases.

We recommend that vague and open-ended statutory provisions be identified and that there be more open debate with public participation about the implications of these provisions. In many cases, there are discriminatory consequences for the poor, immigrants, or youth of color when these laws are enforced.

- *School "zero tolerance" policies and statutes have had the result of the school not sufficiently addressing issues of student misbehavior, but rather referring it all to the court.* Similarly, school truancy has become a major issue in many courts, but its solution requires school, family, and community collaboration, which the court may not be able to impact.

We recommend that, because "zero tolerance" policies often result in suspension or expulsion of the very youth who should remain in school, the school and community be responsible for addressing these issues. Serious and repeat cases of criminal behavior in schools must be addressed by the courts, but programs must be established in schools and communities to address other behaviors.

- *The court is increasingly willing to accept referrals (especially of females) for incorrigibility and domestic violence when parents say that they can no longer handle the youth and wish to turn her/him over to the court.*

We recommend that mediation and other dispute resolution services be increasingly available in the community as well as in the court. Such services have demonstrated that parents can be helped to deal with serious issues of family conflict and adolescent misbehavior.

2. Minority Overrepresentation

Despite initiatives at the federal level, youth of color remain overrepresented at all levels of the juvenile justice system. In many of the courts in our study, minority youth are substantially overrepresented in police arrests, court referrals, detention, transfer, formal petitions, and commitments relative to their proportion in the population, and these findings are comparable to nationwide patterns. The source of this overrepresentation derives from factors both within and outside of the court. It occurs through intended or unintended attributions of dangerousness or delinquency to children of color. Risk assessment instruments and other institutionalized practices or norms focus on factors that are more correlated with characteristics of minority populations (e.g. family structure) and funnel minority children through different stages of the system. Juvenile codes and police surveillance may direct more intense attention on areas or behaviors associated with minority groups. Structural inequalities that are correlated with higher crime rates, poverty, community disorganization, and poor housing may be more heavily concentrated among populations of color, while media representations of crime may focus more prominently upon minorities and evoke stereotypes concerning race/ethnicity and crime. Consequently, more formal social control is extended toward these groups leading to their overrepresentation in the system, and, an expansion of the system of control itself. The series of "racial" incidents and experiences that have erupted in our country over the last decade should not be viewed as isolated incidents, but should be examined as a pattern of the experiences of people of color in America. The criminal and juvenile justice systems are highly representative of these experiences and must be seriously and openly discussed. This is an issue that is the responsibility of both the public and private sectors, and one that will require resources and support to address.

We recommend that there be greater effort at the federal and state levels to enforce the provisions of the Juvenile Justice and Delinquency Prevention Act and decrease the number of children of color being processed by the juvenile justice system and placed in secure out-of-home placement. We further recommend collaboration with the foster care system where much of the overrepresentation in out-of-home placement begins. These initiatives must build upon past attempts, but also engage more thoroughly in a

dialogue about the role of race and ethnicity in our society. We recommend that this dialogue include analysis of data on the overrepresentation of children of color in all stages of the justice system, reasons behind this overrepresentation, the role of the public and private sectors in addressing this issue, and the media's role in representing race and crime. Within the juvenile justice system, we recommend that incentives be provided to local communities to reduce the number of children of color in all types of secure out-of-home placement.

3. The Increasing Involvement of Girls in the Juvenile Justice System

The number and proportion of females processed in the juvenile justice system has increased steadily since the early 1990s; however, much, if not most, of this increase is due to court entry and adjudication for status offenses and domestic violence. Processing for substance abuse has also increased, but to a lesser extent. We learned that females are often not distinguished from males in decision making, despite the substantial evidence that their experiences are very different and the behaviors causing their referral to the courts also vary significantly. Females are far more likely to be referred to the court for incorrigibility, domestic violence and/or running away by parents who often ask the court to take the girls. They are also far more likely to be the victims of serious physical and/or sexual abuse within their families and by older men.

We recommend that structured decision-making instruments be gender specific, focusing on the particular characteristics and needs of both females and males and including assessment of needs and protective factors integrated with risk assessment. To eliminate the inappropriate and long detention of females, as well as their inappropriate out-of-home placement, we recommend that home detention and small shelter detention be offered. Additionally, we recommend the development of community-based, low-security facilities, both residential and non-residential, with mental health, responsible sexual behavior, and substance abuse services. We recommend that young women be directly involved in the design and direction of these programs as well as in peer counseling. Because male and female staff often communicate displeasure about working with adolescent females, we recommend that courts and juvenile justice service agencies provide extensive training and supervision of staff in gender-specific services and adolescent female development.

4. Information Systems

Most of the courts in our study did not maintain sufficient information systems to allow for analysis of individual cases and tracking of case processing practices. The quality of aggregate data from each court also varied, as several courts did not have public access court reports and the information in court reports and other aggregate data sources varied considerably. This reflects the overall limitations of current data systems and poses a number of problems for juvenile justice administration. First, case data can become quite extensive and complex, creating numerous problems for old data management systems, making case management and tracking a difficult job. Second, many courts do not maintain adequate data systems to allow them to monitor case

processing trends and practices. Third, many cases are able to fall through the cracks when data systems are not sufficient, creating substantial, but often undetected, consequences for individuals and the system. Several of the courts in our study were in the process of updating or replacing their data management systems. Code changes now often require that information be made available to other agencies.

We recommend that juvenile justice systems improve the quality of data they maintain on case management and processing and issue annual court reports that highlight case processing practices and outcomes. This will enhance the ability of courts to manage their caseloads, maintain quality assurance, monitor trends, address minority overrepresentation in various stages of processing, track the overprocessing of status offenders, diagnose system strengths and weaknesses, and anticipate potential problems. Furthermore, it will improve system accountability by allowing examination of court practices by the public and other interested parties. We recognize the large cost associated with these systems and, thus, recommend that collaborative and linked systems be developed across child welfare and juvenile justice, and that these systems have access to information on health and education.

5. The Role of Prosecutors

One of the most common themes expressed in our field visits and data analysis is the increasing role of prosecutors in the administration of juvenile justice. Whereas prosecutors were previously not active participants in the juvenile court, they are now becoming institutionalized in the court and are increasingly part of intake, detention, transfer, petition, and disposition decisions. Their increased authority and legitimacy in the juvenile court is derived from juvenile codes and changing perceptions and practices regarding juvenile crime and the juvenile court. Consequently, they are a more influential member of the court community and are able to dictate and affect court processing norms and orientations. This has a number of implications for case processing and the juvenile court. The prosecutor's office is subject to political pressures and trends, and maintains a public safety orientation that often may conflict with rehabilitative or treatment-oriented goals of the system. As prosecutors' role becomes institutionalized in various decision-making stages, their practices may be institutionalized and further affect the flow of cases into the court and outcomes of cases in the system. Lacking at present is systematic information about the processing of juveniles in both the juvenile and the adult justice systems making it impossible to discern differential practices. Such information would be useful in the guidelines for prosecutorial practice that are being developed in many areas.

We recommend that the role of the prosecutor in juvenile justice administration be studied to understand its impact on case processing practices and norms. We further recommend that efforts be made to implement guidelines concerning the role of the prosecutor in the court that take into account issues of child and youth development and the nature of the court. Prosecutors' associations could provide training to their

members regarding the implementation of guidelines. Provision of consultation to prosecutors by social workers and mental health professionals is desirable, as has been shown in several jurisdictions. We also recommend that attention be paid to the due process rights of juveniles. Resources must be provided to ensure that these rights are adequately protected in the court.

6. Defense Counsel

Legal defense for children has not been equally institutionalized and remains relatively undeveloped in juvenile justice, even leading to more punitive outcomes for juveniles who have representation in some studies. Given the increasing role of prosecutors in the system and the increasing costs to children associated with the punitive orientation of juvenile codes, it is necessary that attempts be made to afford children effective defense counsel. In the courts in our study, defense counsel was primarily provided through public defender offices or court appointed counsel. The structure, quality, effectiveness, legitimacy, resources, and training of juvenile defense counsel vary considerably across these courts. Some courts maintain large, specialized, and active public defender offices, some maintain much smaller and less specialized public defender offices, and some rely primarily on court appointed attorneys who are often provided at a set fee for each case. The type and quality of representation differ substantially with regard to whether counsel is appointed, the stage at which counsel is appointed, the training and experience of counsel in dealing with children and working in the juvenile court, and court norms regarding representation.

We recommend that greater attention be paid to the legal needs of children in the juvenile court. Representation should be provided at every stage of the proceeding, from initial and detention hearings through the disposition and following the youth into his or her placement. We recommend that children be represented by public defenders in most cases and that these offices maintain experienced juvenile defense attorneys and not use the juvenile court as a training ground for attorneys as they advance in their careers. In every court, either public defenders or appointed counsel should meet regularly with judges, prosecutors, and probation staff to discuss issues affecting their representation.

7. The Increasingly Punitive Mandate of Juvenile Codes

Juvenile code changes, both nationwide and in these four states, have widely transformed the juvenile court into a more punitive institution. They have eased the process of transferring children to the adult criminal court by lowering the minimum age for transfer, expanded eligible offenses for transfer, and afforded decision making authority to different actors in the system. Additionally, they have provided juvenile courts with additional tools for sentencing, made correctional placements more punitive, and opened access to juvenile proceedings and records. Whereas juvenile codes previously afforded decision makers with a great deal of discretion with

regard to the processing of cases, they are increasingly more detailed and are structuring the decision making process, removing the discretion of the court and replacing it with more elaborate decision-making processes. Additionally, they often offer simplistic solutions to the complex world of juvenile justice through punitive tools such as waiver and sentencing provisions. Although the practice of court actors still dictates the operation of juvenile courts and these practices may ignore various legislative provisions, juvenile codes are increasingly impacting the juvenile court through the institutionalization of these punitive provisions into practice.

We recommend that juvenile codes be reviewed by State Bar Associations to assess their impact on juveniles, courts, and communities. It is essential that this review include an assessment of the racial/ethnic, age, and gender impacts of the codes and their effect on different geographic communities. It is important to understand the nature and impact of codes and code changes, but we must also assess the utility of increasingly using juvenile codes to dictate broad social policy toward children and youth. We recommend that juvenile codes be revised in accordance with knowledge on child development and in light of society's responsibility to provide children with the opportunity to develop. Specifically, we recommend that juvenile codes be changed to provide judges with the authority and discretion to decide waiver and transfer actions.

8. Structured Decision Making and the Service Continuum

Our research raises significant questions about the practicality of structured decision making (SDM) in juvenile justice administration, especially at the dispositional stage. In theory, a well-designed SDM model could provide a standardized mechanism for rationalizing decision making, promoting fairness and equity, and assigning accountability-based sanctions. However, both SDM and accountability-based sanctioning require a reasonably complex continuum of delinquency service resources, where available placement alternatives generally match the volume and diversity of "offender types" the assessments are capable of producing. Consequently, court communities with limited service options will be incapable of realizing the full potential of SDM procedures. Lacking a suitable range of program options typically means that offenders with variable risk characteristics are lumped together into similar services (i.e. secure placement), or parceled according to resource constraints rather than case characteristics. This scenario may fail to promote both offender and system accountability, as it potentially entails the use of inappropriate levels of punishment and interventions that do not correspond with the quality of services juveniles require.

We recommend that structured decision making instruments and procedures be developed for the stages of the juvenile justice process where there are clear decision options. They must be attentive to gender and race/ethnicity and include equal emphasis on needs and protective factors as well as on risk. However, without a continuum of alternatives, SDM should not be used in disposition and placement

decision making. Instruments and procedures must be feasible and must be tested and validated periodically. They should also provide a basis for choice of the least restrictive alternative. Results from analyses of SDM should be provided to staff who use the instruments so that they can evaluate their utility for the decisions that they make. Staff's expertise and views about the utility of SDM for their particular system should be considered in determining the appropriateness of SDM.

9. Accountability

An overarching conclusion from this study is that the concept of accountability is complex, embodying multidimensional responsibility relationships, and must not simply be viewed as a rationale for punishing juvenile offenders. While much of the accountability rhetoric treats this concept as a simile for retribution, both the history of juvenile justice administration and observations in modern court contexts reveal that this is an exceedingly narrow interpretation of this organizing principle. The earliest appeals for accountability in juvenile justice were grounded in a liberal appeal for improved system performance and protection of juvenile rights (i.e. deinstitutionalization and due process). Even today, while many assert that the rehabilitative ideal is an outdated principle from eras passed, the majority of decision makers we surveyed remain supportive of the treatment agenda, identifying most strongly with a rehabilitative focus in accountability-based sanctioning. These decision makers are also more likely to favor fairness and victims' rights-based accountability definitions over a "just desserts" accountability ideal, notwithstanding the proliferation of punitive accountability reforms.

We recommend that juvenile justice policy and practice pursue a balanced interpretation and application of accountability principles in juvenile justice. There are three key contextual dimensions to consider in balancing the accountability ideal: 1) the juvenile justice system, 2) the community, and, 3) the juvenile. Until we can successfully develop and maintain responsibility relationships within and between these three levels, we will not realize the potential of the accountability ideal as an organizing principle in juvenile justice administration and the focus will continue to be on individual juveniles.

10. Community Involvement

There appears to be an expectation in the community that the juvenile court can address all problems of youth development and deviance. As a result, the court has been overwhelmed with the volume of cases and issues, not just with respect to delinquency, but also abuse and neglect, child custody and adoption, mental health service needs, and sometimes traffic cases. Certainly, one institution cannot effectively perform all of these functions today. The Juvenile Justice and Delinquency Prevention Act gave priority to policies of deinstitutionalization, diversion, and decriminalization through a variety of community efforts. These goals no longer appear to have priority, although the juvenile crime rate is now at or below that at the time the Act was passed. One of the reasons for this priority shift appears to be the failure to mobilize communities and

neighborhoods to assume responsibility for the development of their children and youth. Instead responsibility is abdicated to the court, or to other institutions if the parents have resources for the latter's services. Many communities have benefited from community planning for children and youth through broadly representative and interprofessional committees with citizen participation. These community planning boards are able to consider which agencies are best equipped to address the problems of adolescent socialization and deviance in ways that lead to long-term positive outcomes. Boston's strategy for addressing the issues of youth violence led to the successful implementation of such a model. It is expected that substantial monies now being allocated for court processing and corrections could be made available to community outreach and restoration services.

We recommend the development and support of community-based services that are family focused, empowerment oriented, and culturally sensitive. They must be located within neighborhoods where there can be effective community outreach and involvement. These programs need to address the development of protective factors and resources for youth development, as illustrated by "Communities that Care" (Hawkins and Catalano, 1998), Youth As Resources (Crime Prevention Council, 2000), and restorative justice programs. Services must be readily accessible on a "24-7 and 365" basis and involve adults and youth working together. When youth develop a sense of involvement and ownership in their community, they will mobilize their efforts toward its betterment, not its destruction. Through the development of these community-based resources, we recommend that communities and other systems assume responsibility for many of the issues currently being brought within the court's jurisdiction, including status offenses and school truancy.

11. Specialty Courts

Specialty courts exist in a few of the courts in our research sample and there are plans for development of more. These efforts include drug courts, gun courts, teen courts, homeless courts, community courts, and alternative dispute resolution programs. Specialty courts usually provide speedy handling and special services for youth who fit the identified category. Specialty courts have been identified as a middle ground between those who wish to return the juvenile justice system to its original model and those who call for treating young offenders as adults. They provide the means to target specific youth, to involve the community, and to develop community-based services in partnership with the juvenile court. Support is needed to develop specialty courts for several reasons. First, specialty courts require some sophistication with regard to screening and admissions criteria to ensure that appropriate youth are selected, and procedures need to be developed to ensure that Constitutional rights are protected. Second, programs must be developed to ensure that services are specified and delivered properly. Finally, data must be gathered to determine if the programs are effective and should be supported and replicated.

We recommend that specialty courts and alternative dispute resolution mechanisms continue to be developed to divert more juveniles from formal circuit court processing and to expand the role of the community in taking responsibility for the development of youth. These courts should be developed through partnerships between the community and court, and resources should be provided to ensure that they gain legitimacy among formal and informal systems of social control. We recommend, however, that these courts do not merely serve as extensions of formal social control, but that they serve to reduce reliance on formal processing and engage both the youth in the community and the responsibility of the community for youth. We also recommend that federal, state, and local governments develop and provide technical support and resources for the development of these courts.

12. Judicial Leadership

Our study found that the leadership exercised by juvenile court judges has significant effects on the court community. Within the court community model, judges still maintain substantial authority to affect case processing norms and orientations, as well as to make decisions regarding case processing policy and practice. This occurs through different methods, across different venues, and is directed at different areas of policy. Little is known, however, about the key components of judicial leadership, because of its complexity and the difficulty in ascertaining its dimensions and effects. In many of the courts in our study, the political power of the juvenile court judge has not diminished significantly despite the remarkable changes in jurisdiction and court organization. Judges still maintain the ability to persuade local governments to fund key programs and to make formal and informal arrangements that have minimized the effects of code changes or the institutionalization of prosecutors in the juvenile court. However, as groups such as prosecutors obtain more authority and legitimacy in the juvenile court and courts continue to restructure, it is uncertain how judicial leadership will affect case processing.

We recommend that attempts be made to continue to understand and advance judicial leadership in light of changes to the court. As the court continues to evolve, the roles of judges and other professionals will be vital to understanding the court community context. We recommend that research focus on judicial leadership and the court community. This research should be comparative and account for changes in court administration and current issues affecting judicial leadership and the organization of the court. We also recommend that State Bar Associations and other organizations continue to provide training about current issues in the juvenile court and ways that judges can provide effective leadership.

13. Human Rights

Human rights conventions and resolutions of the United Nations provide a valuable framework for examining and guiding the treatment of children in the juvenile and criminal justice systems. Most of these have been adopted by a majority of the countries of the world, but the United States

still has not ratified several of these conventions and resolutions. There are seven separate frameworks that are useful to consider, but the following three are particularly relevant to this project:

1. United Nations Convention on the Rights of the Child
2. United Nations Standard Minimum Rules for the Administration of Juvenile Justice
3. United Nations Convention for the Elimination of All Forms of Racial Discrimination.

Many other countries have developed juvenile justice policies and programs that we in the United States could benefit from knowing more about for the solutions they could provide to the issues and problems that we confront. Human rights, and especially children's rights, deserve more serious study with respect to our juvenile justice system.

We recommend that serious consideration be given to examination of policies and issues facing the juvenile justice system in the United States from an international human rights perspective. There are several specific areas deserving attention – access to counsel at all stages of processing, permeable boundaries between the juvenile and adult justice systems, conditions of confinement in juvenile as well as in adult facilities, minority overrepresentation, and the application of the death penalty to acts committed as a child. Compliance with international covenants is complex in the U.S., but these standards provide a starting point to envisioning the treatment and rights of children in the juvenile justice system. These standards must become part of the discourse concerning children and their treatment within the system if we seek to truly provide justice to juveniles.

CONCLUSION

As the adage proclaims, "children are our future." They will grow up, age, and assume responsibility for society. Society's treatment of children will provide a foundation for the type of adults that they will become and the type of society they will help constitute. A society that provides for the basic material, emotional, and developmental needs of its children, as well as engaging them in society, will reap the benefits of this investment. Currently, the United States does not make this investment in its children, despite political rhetoric to the contrary. The treatment of children is still stratified on the basis of race, class, and gender, and we are continually turning to the justice systems as our main cog in the wheel of youth development for ever-increasing numbers of children. Youth development in public policy is now primarily expressed through juvenile codes and practiced in juvenile courts for many children. Consequently, the juvenile court is being used as the principal tool to address many of society's problems and is struggling under this burden.

The contemporary juvenile court is not equipped to be the major provider for child and youth development. Juvenile courts do not maintain the resources necessary to effectively serve as social

welfare institutions. They should not operate as the primary tool of delinquency prevention and should not replace communities, schools, and other social welfare agencies in providing for the needs of children. Juveniles must retain due process rights, including the right to trial by jury, in their encounters with the state. Rehabilitation and treatment are not mutually exclusive with these rights, but must be utilized once these rights have been adequately expressed. The current function of the court as a catchall for many of society's problems and the increasing number of cases this designation brings into the system produce tremendous pressures on the court that it cannot overcome. Consequently, all children are short-changed by the system.

Current conceptions of accountability that focus only on the individual offender are consistent with this approach of the juvenile court. These approaches focus on the behavior of individual offenders without focusing on the conditions that affect this behavior, the responsibility of the community in addressing these conditions and behaviors, and the role of the juvenile justice system and other social institutions and agencies in assisting the community in this endeavor. Accountability is not a one-way street, but must be conceptualized to include the community, the juvenile justice system and other social institutions and agencies, as well as individual juveniles and their families. Communities must be empowered and held accountable for providing informal and formal sources of social control and resources and activities for youth that work to engage them in the community. Systems must be responsible and held accountable for working with communities to develop these resources. In so doing, systems must agree to address serious behavior that is beyond the means of communities, provide fair and equitable treatment to juveniles in the system, and monitor their activities through court reports and sufficient data systems. If these aspects of accountability are addressed, offenders can be held accountable for recognizing the consequences of their behavior through community interventions and programs or through punishment that is distributed fairly and equitably. Achieving this level of accountability, however, requires that we reconceptualize the mission and practice of juvenile justice.

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Appendix A

Flow Charts

Figure A: Michigan Juvenile Justice Process

Figure B: Ohio Juvenile Justice Process

Figure C: Illinois Juvenile Justice Process

Figure D: Indiana Juvenile Justice Process

Figure A: Michigan Juvenile Justice Process

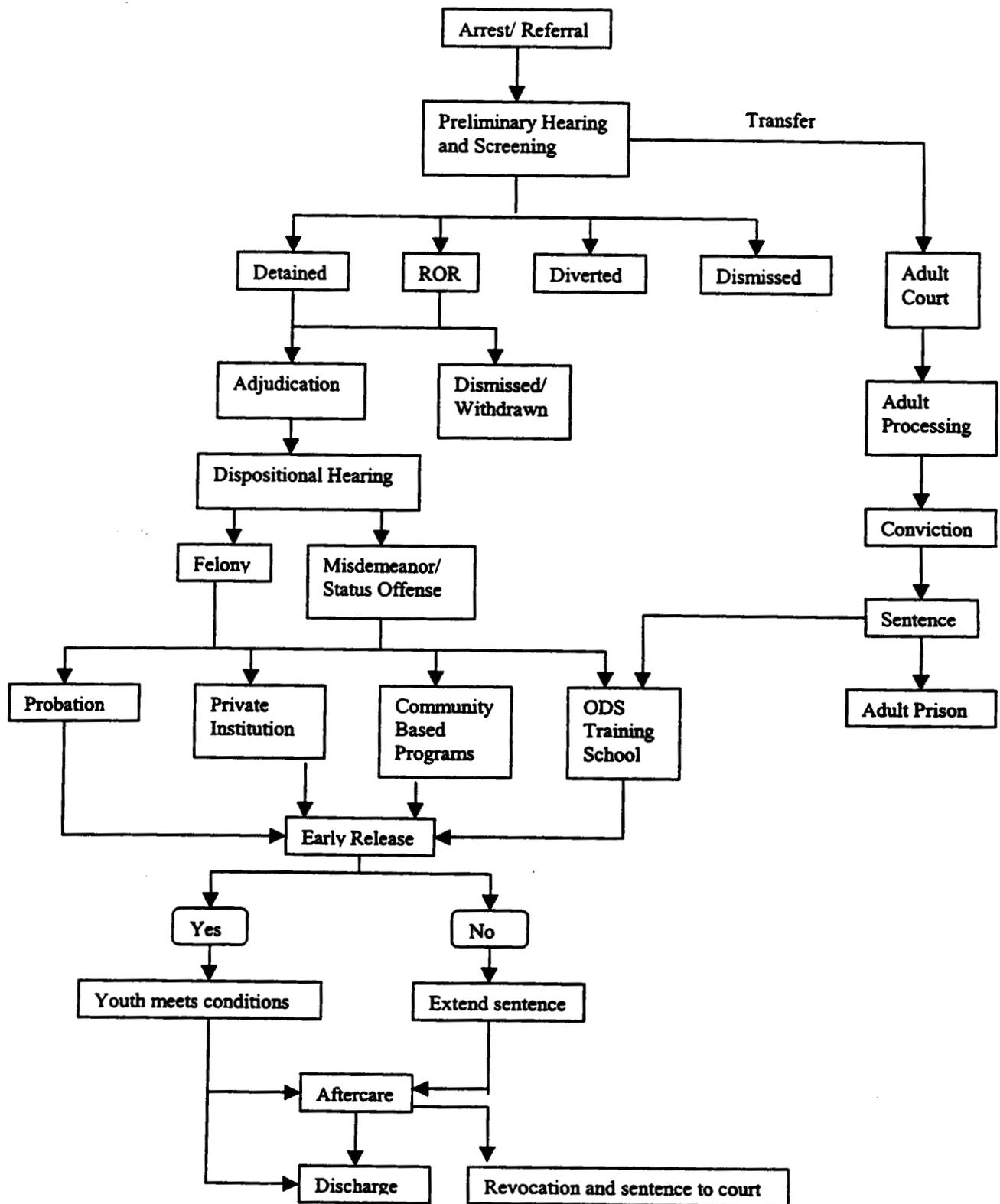


Figure B: Ohio Juvenile Justice Process

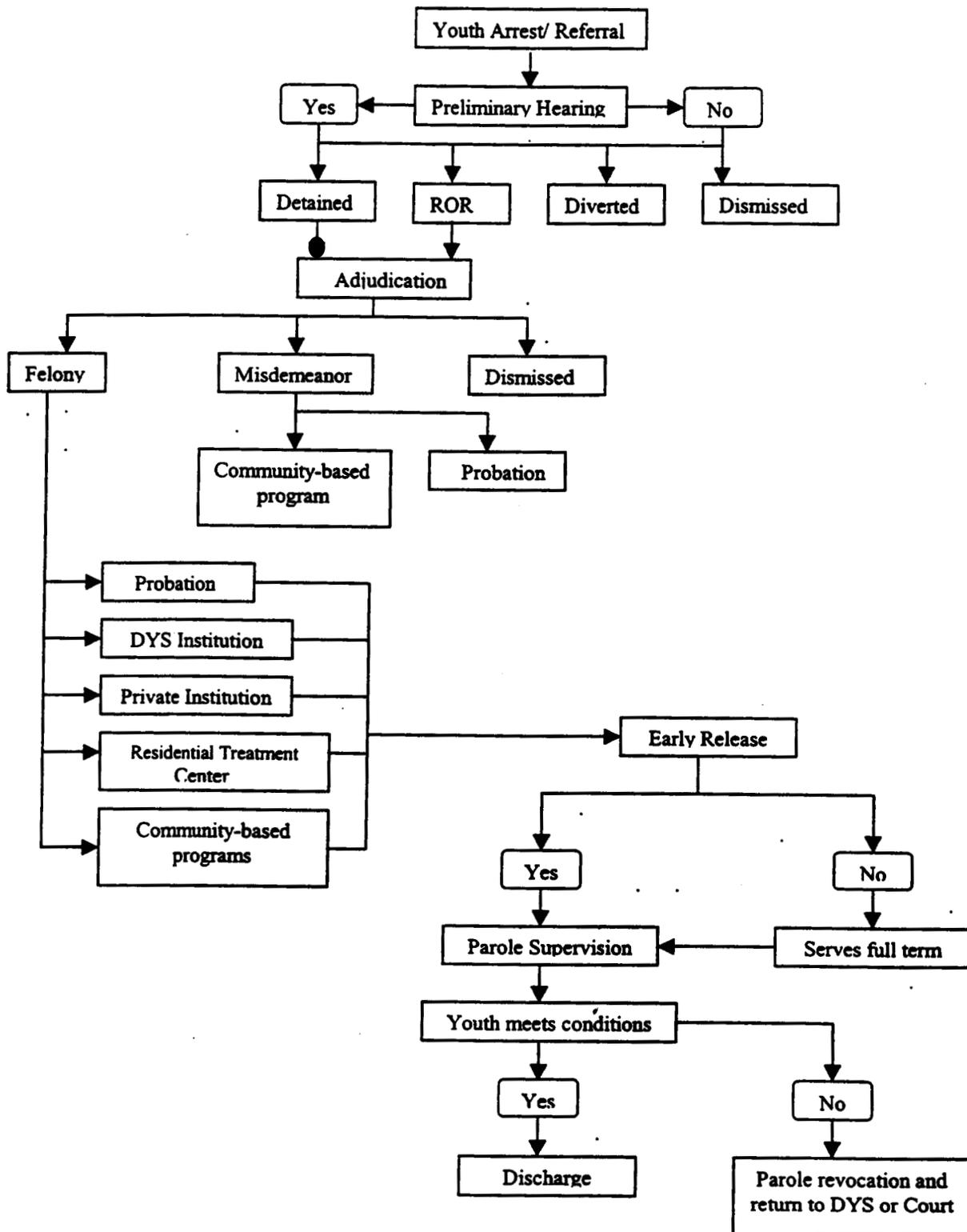


Figure C: Illinois Juvenile Justice Process

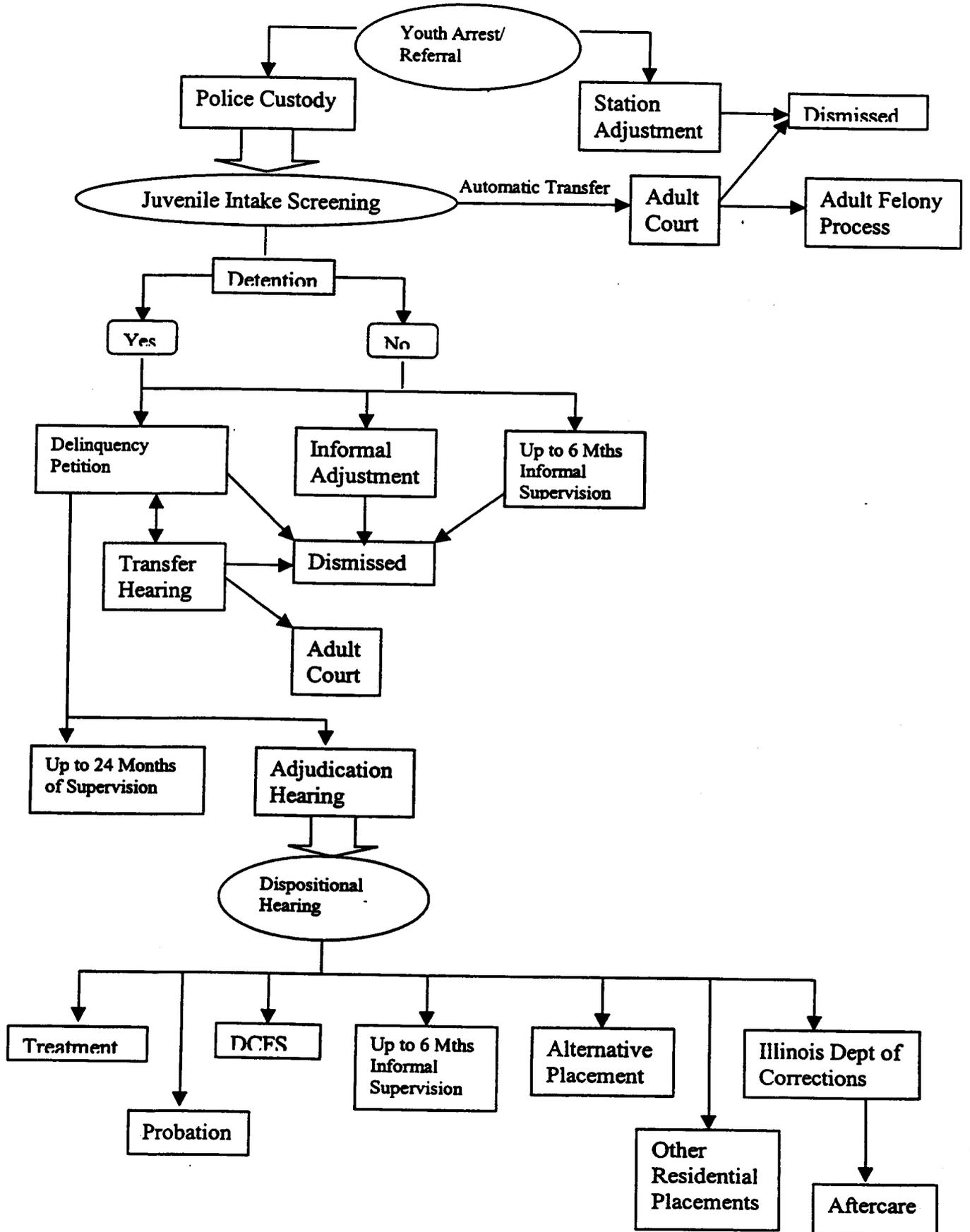
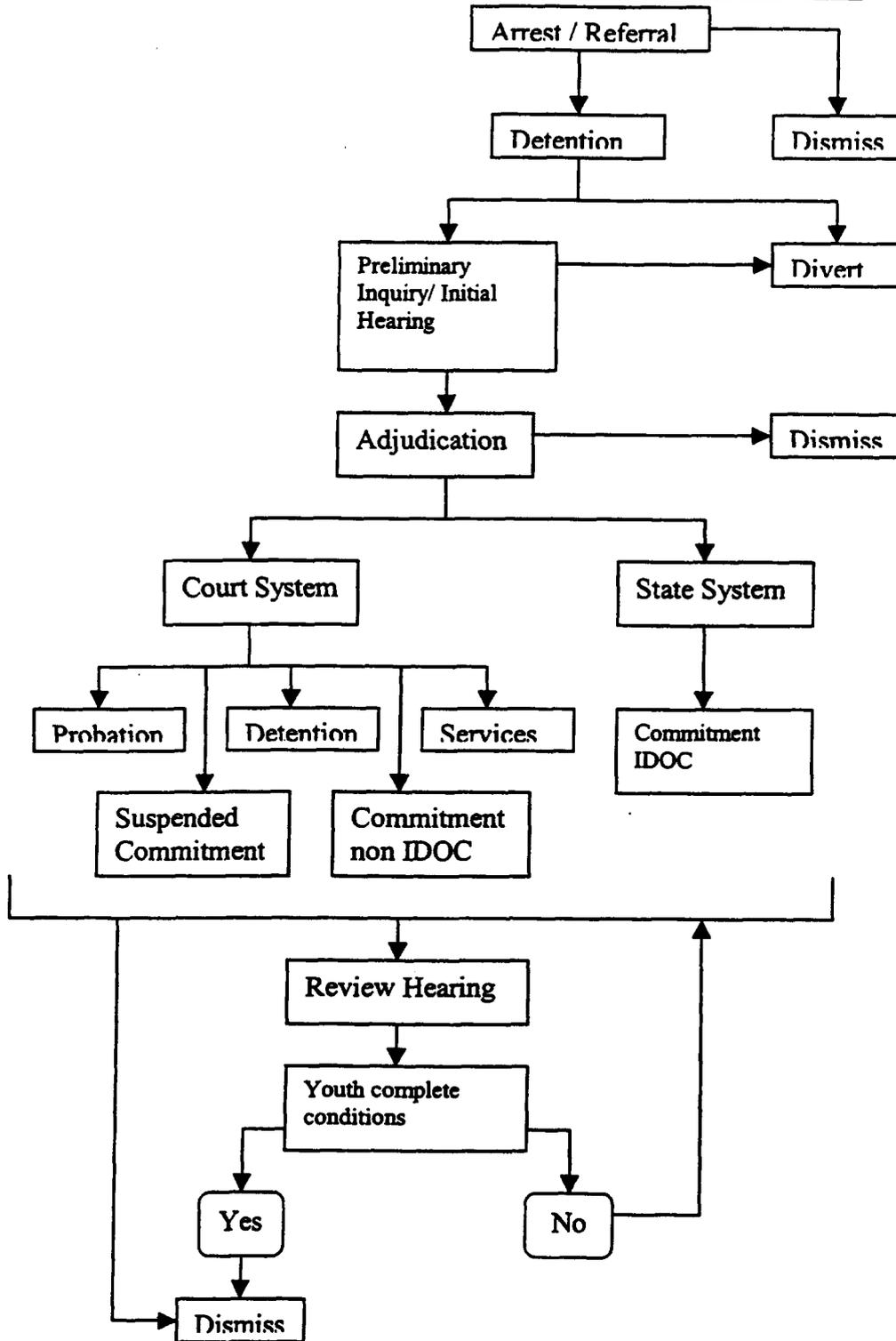


Figure D: Indiana Juvenile Justice Process

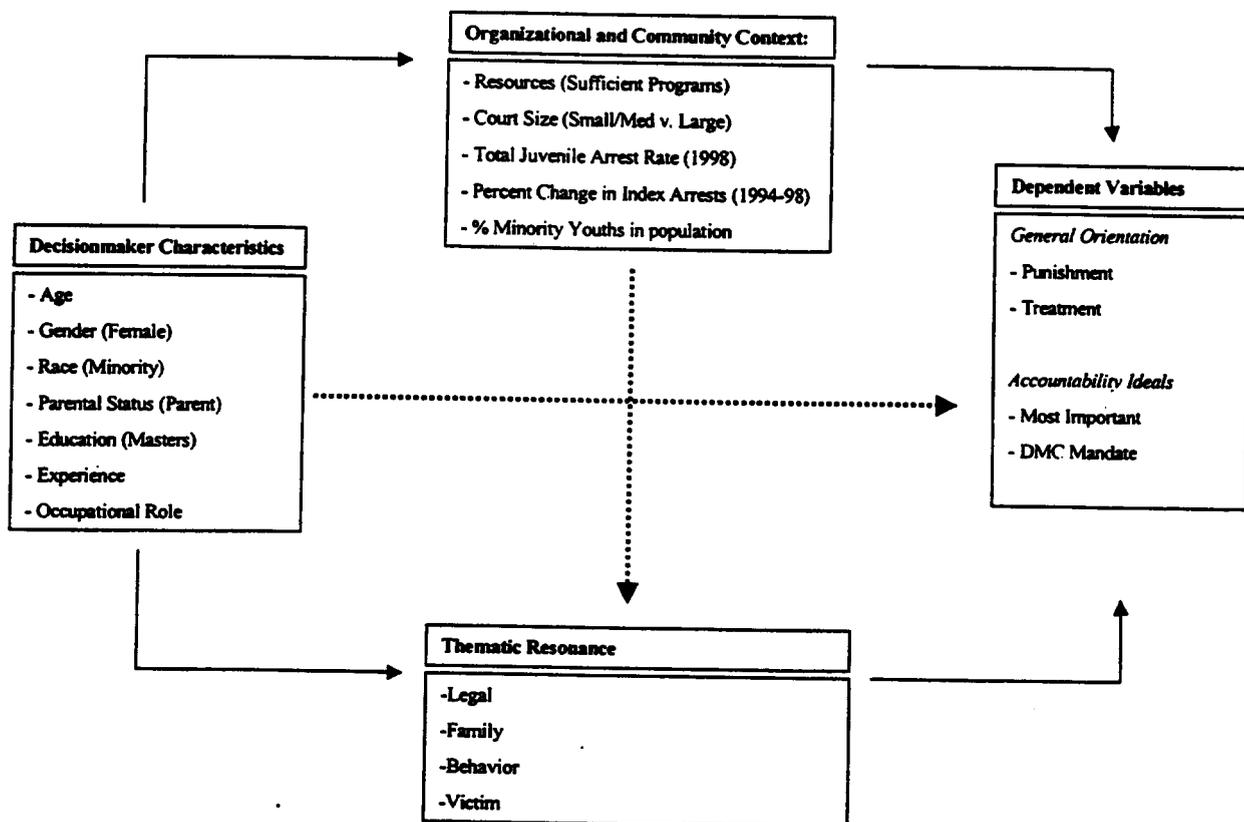


Appendix B

Data from Chapter 10

- B1: Research Model**
- B2: Factor-Weighted Attitude Scales**
- B3: Accountability Definitions**

Appendix B1: Research Model



Appendix B2: Factor-Weighted Attitude Scales

1) Thematic Resonances

- Legal (N= 657; Alpha= .704; Range= 1.5-5; Mean= 4.45)

III-4-A: How important to you is the youth's *present offense* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-B: How important to you is the youth's *prior offense* record in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-L: How important to you is the youth's *placement history* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

- Victim (N= 665; Alpha= .710; Range= 1.5-5.0; Mean= 3.75):

III-1-4: How important should *repaying the victim or community* be in dispositional decision-making? (Not Important-Extremely Important)

III-1-7: How important should *ensuring the involvement of victims* be in dispositional decision-making? (Not Important-Extremely Important)

III-3-A: In my court, *more emphasis should be placed on the extent of harm or loss to victims* in dispositional decision-making. (Disagree-Agree)

IV-1-2: *Understanding that offenses harm other people* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

IV-1-9: *Being required to pay back their victims* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

- Individual Behavior (N= 659; Alpha= .713; Range= 2.0-5.0; Mean= 4.08):

III-4-C: How important to you is the youth's *attitude and demeanor* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-J: How important to you is the youth's *drug involvement* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-P: How important to you is the youth's *attendance and/or behavior in school* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-Q: How important to you is the youth's *gang association* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

- Family (N= 657; Alpha= .760; Range= 1.5-5.0; Mean= 3.93):

III-4-F: How important to you is the *stability of the youth's family* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-G: How important to you is the *parent's presence in court* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

III-4-H: How important to you is the *degree of parental cooperation* in recommending/making a disposition for an adjudicated delinquent? (Not Important-Very Important)

IV-1-10: *Improving the family environment* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

2) Dependent Variables

- Punishment (N= 664; Alpha= .753; Range= 1.2-5.0; Mean= 3.31):

III-1-3: How important should *punishing the offender* be in dispositional decision-making? (Not Important-Extremely Important)

III-3-i: In my court, *more emphasis should be placed on punishment* in dispositional decision-making. (Disagree-Agree)

III-3-m: In my court, *more delinquent youth should be transferred* to the adult system. (Disagree-Agree)

IV-1-1: *Fearing more severe punishment* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

IV-1-7: *Losing freedom through restrictive supervision* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

- Treatment (N= 662; Alpha= .785; Range= 2.43-5.0; Mean= 4.15):

III-1-2: How important should *treating the offender* be in dispositional decision-making? (Not Important-Extremely Important)

III-1-6: How important should *improving a juvenile's competence* be in dispositional decision-making? (Not Important-Extremely Important)

III-1-8: How important should *improving a juvenile's pro-social attitudes* be in dispositional decision-making? (Not Important-Extremely Important)

IV-1-4: *Receiving counseling, therapy, or mental health services* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

IV-1-5 *Improving school performance* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

IV-1-6 *Having positive work or employment experiences* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

IV-1-8 *Increasing community service and involvement* is an important factor in turning juveniles away from further involvement in delinquency and crime. (Not Important-Extremely Important)

Appendix B3: Accountability Definitions

Respondents were presented with the following two questions:

1. Indicate on a 5-point scale how similar or different each definition is to your own beliefs about how the juvenile justice system should work (1= Not very-Similar and 5 = Very Similar).

- A. Accountability should be to the community and especially the *youthful offender*, emphasizing ideals of prevention and *rehabilitation*.
- B. Accountability should be to the community and especially the *law-abiding public*, emphasizing ideals of safety and punishments that are "*just desserts*" for individuals who commit crimes.
- C. Accountability should be to the community and especially *victims*, emphasizing ideals of material and emotional *restitution*, community restoration, and civil society.
- D. Accountability should be to the general community, emphasizing ideals of equal justice and basic fairness within the justice system.

2. If the juvenile justice system could only apply one of the definitions of accountability provided above, which would you identify as most important?

Note: Each of the definitions invokes accountability relationships between the juvenile justice system, juvenile offenders, and community. However, the definitions prioritize specific aspects of this relationship. For example, definition B is unique in its emphasis on the accountability of offenders, while the other definitions contain a more explicit reference to the responsibility of the juvenile justice system to produce specific outcomes for juveniles (A), victims (C), and communities in general (D). The definitions are abbreviated in the analysis and discussion as follows:

- A = Rehabilitation
- B = Punishment
- C = Victims' Rights
- D = Fairness

APPENDIX C

Survey Instruments

**Judicial (same as Probation Officer survey instrument except for Section 9).
Prosecutor (same as Defense Attorney survey instrument).**

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JUDICIAL SURVEY

This research is supported by a grant from The National Institute of Justice (98-JB-VX-0112) to study juvenile court and corrections decision making in four states.

Section 1: General Views on Juvenile Justice

1. Here are some general statements about juvenile justice and the types of state and community intervention which juvenile delinquency might require. Realizing that each case is unique, please indicate how much you generally agree or disagree with each? (Circle one number for each on a scale of 1 to 5, where 1 = Strongly Disagree, 3 = Neither Agree nor Disagree, and 5 = Strongly Agree)

					
	1	2	3	4	5
	<i>Strongly Disag</i>				<i>Strongly Agree</i>
a. Sympathetic understanding is the key to helping delinquents	1	2	3	4	5
b. There are not enough beds in secure institutions for all the youths that should be placed there	1	2	3	4	5
c. More delinquent youth should be eligible for transfer to the adult system	1	2	3	4	5
d. Delinquents do <u>not</u> need to be punished in order to be rehabilitated	1	2	3	4	5
e. Many delinquents currently placed in secure institutions could be adequately handled in less restrictive programs	1	2	3	4	5
f. The police do not enforce juvenile laws strictly enough	1	2	3	4	5
g. My county needs more community-based, non-secure residential programs for delinquents	1	2	3	4	5
h. Juvenile probation enforces supervision requirements strictly enough	1	2	3	4	5
i. Delinquent minority youth often require more restraint and control now than they have in the past	1	2	3	4	5
j. The due process rights of juveniles are insufficiently protected	1	2	3	4	5
k. Delinquent girls require more restraint now than they have in	1	2	3	4	5
l. If the evidence does not establish the offense charged beyond a reasonable doubt, the case should be dismissed, regardless of the child's apparent need	1	2	3	4	5
m. "Structured decision making" (i.e. risk/needs assessment) is an effective way to make placement	1	2	3	4	5
n. Placing a youth in detention is a good way to demonstrate that the court means business	1	2	3	4	5
o. Termination of a case with a warning is the best disposition for minor offenses	1	2	3	4	5

Section 2: Disposition Objectives

5. Overall, how important **should** each of the following objectives be in dispositional decision making in juvenile justice? (Circle one number for each item where; 1 = Not at all Important and 5 = Extremely Important)

	<i>Not at all Impor tant</i>				<i>Extre mely Impor tant</i>
	←—————→				
a. Deterring the offender	1	2	3	4	5
b. Treating the offender	1	2	3	4	5
c. Punishing the offender	1	2	3	4	5
d. Repaying the victim or community	1	2	3	4	5
e. Equitable handling of offenders	1	2	3	4	5
f. Improving juveniles' competence (i.e. education, etc.)	1	2	3	4	5
g. Ensuring the involvement of victims	1	2	3	4	5
h. Improving a juveniles pro-social attitudes	1	2	3	4	5
i. Protecting society	1	2	3	4	5

6. Referring to the list of factors provided above in question #5, please identify the *letters* (i.e. a, b, c,) corresponding to the first and second **most important** and the one **least important** objective in dispositional decision making.

Most Important Objective: _____ Second Most Important: _____ Least Important Factor: _____

e. Improving school performance	1	2	3	4	5
f. Having positive work or employment experiences	1	2	3	4	5
g. Losing freedom through restrictive supervision	1	2	3	4	5
h. Increasing community service and involvement	1	2	3	4	5
i. Being required to pay back their victims	1	2	3	4	5
j. Improving the family environment	1	2	3	4	5

10. Referring to the list of factors provided above in question #9, please identify the *letters* (i.e. a, b, c,) corresponding to the first and second **most important** factors and the one **least important** factor in helping juveniles turn away from further involvement in delinquency and crime.

Most Important factor: _____ *Second Most Important*: _____ *Least Important* factor: _____

11. The following statements address the **effectiveness of existing resources** in your jurisdiction's juvenile justice system. How much do you agree or disagree with each statement? (*Circle one number for each item where 1 = Strongly Disagree, and 5 = Strongly Agree*)

	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
	←	—————→			
a. Secure institutions effectively punish delinquents	1	2	3	4	5
b. Secure institutions effectively rehabilitate delinquents	1	2	3	4	5
c. Secure institutions effectively deter delinquent behavior	1	2	3	4	5
d. Community-based programs effectively punish delinquents	1	2	3	4	5
e. Community-based programs effectively rehabilitate delinquents	1	2	3	4	5
f. Community-based programs effectively deter delinquent behavior	1	2	3	4	5

Section 4: Structured Decision Making in Juvenile Justice

In the following series of questions we ask about the use of Structured Decision Making (SDM) procedures. For the purposes of this survey, Structured Decision Making refers to any procedures intended to guide decision-makers or “standardize” decisions according to predetermined criteria. Please answer these questions according to **your use** of any SDM procedures utilized in your court.

12. Are you **familiar** with the Structured Decision Making model used in your county?

Yes _____ (1)
 No _____ (2) (Skip to Section 6)

13. Have you been **formally trained** in the use of structured decision making? _____ Yes (1) _____ No (2)

If so, how satisfied are you with the training you have received to date on the SDM system? (*Check one*)

Very Satisfied _____
 Satisfied _____
 Neither satisfied nor dissatisfied _____
 Dissatisfied _____
 Very Dissatisfied _____

14. Have you ever **used** Structured Decision Making procedures?

_____ Yes (1) If so, please indicate the **year** when you first used SDM: 19____

_____ No (2)

15. Below are some possible reasons why structured decision making (SDM) procedures were introduced in juvenile justice. For each, first indicate whether or not you think it was an *official* reason for introducing structured decision making in your court. Next, please indicate whether or not *in your personal opinion* it was a good reason. Finally, please indicate whether you think the potential goals have been met by the introduction of SDM procedures.

Possible Reasons

- a. To place fewer youths in secure placements
- b. To make placement decisions more consistent across the state
- c. To ensure that youth receive the most appropriate placement
- d. To hold juvenile justice decision makers more accountable for their use of discretion
- e. To prevent the overrepresentation of certain groups in secure placement
- f. To create more paperwork for us

a) Was this a reason?		b) Was this a <u>good</u> reason?		c) Has SDM helped to meet this goal?		
Yes	No	Yes	No	Yes	No	Don't Know
1	2	1	2	1	2	8
1	2	1	2	1	2	8
1	2	1	2	1	2	8
1	2	1	2	1	2	8
1	2	1	2	1	2	8
1	2	1	2	1	2	8

g. To reserve commitment to secure placements for only the most serious and chronic delinquent

h. Other (*specify*) _____

1	2	1	2	1	2	8
1	2	1	2	1	2	8

16. In approximately what percentage of your cases have you used each of the following Structured Decision

Making components to reach a dispositional decision? (*Select a separate answer for each*)

Component

- a. Risk Assessment
- b. Needs Assessment
- c. Security Level Classification

<i>Never</i>	<i>1-10%</i>	<i>11-25%</i>	<i>26-50%</i>	<i>51-75%</i>	<i>76%+</i>
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5

17. In approximately what percentage of your cases have you:

- a. reviewed a **predisposition report** prior to making your dispositional decision?
- b. reviewed the **Structured Decision Making** recommendation prior to making your dispositional decision?
- c. **disagreed** with Structured Decision Making recommendations in your own dispositional decision?
- d. made a discretionary **override** of the Structured Decision Making dispositional recommendation?

<i>Never</i>	<i>1-10%</i>	<i>11-25%</i>	<i>26-50%</i>	<i>51-75%</i>	<i>76%+</i>
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5

18. In general, how often would you say that the Structured Decision Making procedure recommends a disposition that is:

- a. Too lenient?
- b. About right, neither too lenient nor too restrictive?
- c. Too restrictive?

<i>Never</i>	<i>1-10%</i>	<i>11-25%</i>	<i>26-50%</i>	<i>51-75%</i>	<i>76% +</i>
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5

19. Below are some possible reasons for *overriding* the Structured Decision Making instrument. For each, please indicate how often the situation has been related to **your** override decisions.

<u>Reasons</u>	Never (0%)	Rarely (1-10%)	Sometim es (11- 25%)	Often (26-50%)	Very often (51- 75%)	Almost always (76% +)
a. The guidelines recommended community placement but I felt the youth should be placed out of the home.	0	1	2	3	4	5
b. The guidelines recommended community placement and I concurred but there were no suitable community placement alternatives available.	0	1	2	3	4	5
c. The guidelines recommended out of home placement but I didn't feel the youth should be removed from home.	0	1	2	3	4	5
d. The guidelines recommended a community placement and I concurred but my override decision was driven by the parent/legal guardian's request that the child be removed from their home.	0	1	2	3	4	5
e. A mandatory override was required because of the offense for which the juvenile was adjudicated.	0	1	2	3	4	5
f. Other: _____ _____ _____	0	1	2	3	4	5
g. Other _____ _____ _____	0	1	2	3	4	5

20. Which *case specific factors*, if any, typically guide your decision to override structured decision making recommendations for community placement, in favor of **out of home** placement? (*Please List*)

24. In your opinion, what are the **best** things about the Structured Decision Making system?

25. In your opinion, what are the **worst** things about the Structured Decision Making system?

26. What **changes**, if any, would you like to see in the Structured Decision Making system?

Section 5: Accountability in Juvenile Justice

27. The principle of “accountability” is often used to describe goals and standards of the justice system. This concept, however, may have several meanings. Below we propose several potential definitions. How similar is each definition of “accountability” to **your own beliefs** about how the juvenile justice system **should** work?

Question: How similar is each definition to your own beliefs about how the juvenile justice system should work? (Please indicate similarity on a scale of 1 to 5, where 1 = Not very similar, 3 = Somewhat similar, and 5 = Very similar).	Not Very Similar		Somewhat Similar		Very Similar
a. Accountability should be to the community and especially victims, emphasizing ideals of material and emotional restitution, community restoration, and civic or civil society.	1	2	3	4	5
b. Accountability should be to the community and especially the law abiding public, emphasizing ideals of safety and punishments that are “just deserts” for individuals who commit crimes.	1	2	3	4	5
c. Accountability should be to the community and especially the youthful offender, emphasizing ideals of prevention and rehabilitation.	1	2	3	4	5
d. Accountability should be to the general community, emphasizing ideals of equal justice and basic fairness within the justice system.	1	2	3	4	5

28. If the juvenile justice system could only apply one of the definitions of “accountability” provided above, which would you identify as **most important**? (Please specify using the letter a, b, c, or d)

29. If your personal beliefs about accountability in the context of juvenile justice are not captured adequately by the definitions above, please use the space below to share your views on the concept.

Section 6: Judicial Discretion

30. Multiple factors external to the court may affect the amount and use of judicial discretion. Please indicate the extent to which you agree or disagree with the following statements about the use of judicial discretion in your court. (Circle one number for each on a scale of 1 to 5, where 1 = Strongly Disagree, 3 = Neither Agree nor Disagree, and 5 = Strongly Agree)

	<i>Stron gly Disag ree</i>				<i>Stron gly Agree</i>
	←	—————→			
a. Recent changes in the juvenile code have significantly restricted judicial discretion	1	2	3	4	5
b. Recent changes in the juvenile code have reduced the ability of judges to order the most appropriate program for a juvenile offender	1	2	3	4	5
c. The range of available and appropriate resources significantly restricts effective judicial decision making	1	2	3	4	5
d. Public opinion does not influence judicial decision making	1	2	3	4	5

31. In the space below, please describe any additional factors that have restricted your ability to make decisions.

Section 7: Inter-Organizational and Community Relations

32. The juvenile court is integrally related to its community, and organizations or stakeholders in the community often affect what happens in the court. Below is a list of organizations and groups whose activities may directly or indirectly influence the operations of your court. How much direct or indirect influence do you feel each of the following groups has on juvenile case processing in your court? (Circle one number for each, where 1 = no influence and 5 = very much influence)

	No Opinion	No Influence					Very Much Influence
			←-----→				
a. Judges	0	1	2	3	4	5	
b. Police	0	1	2	3	4	5	
c. The state agency administrators	0	1	2	3	4	5	
d. Mental health professionals	0	1	2	3	4	5	
e. Probation officers	0	1	2	3	4	5	
f. Defense attorneys	0	1	2	3	4	5	
g. Prosecutors	0	1	2	3	4	5	
h. Private program providers	0	1	2	3	4	5	
i. Social workers	0	1	2	3	4	5	
j. Youth advocacy organizations	0	1	2	3	4	5	
k. Medical professionals	0	1	2	3	4	5	
l. Community residents	0	1	2	3	4	5	
m. Teachers and education officials	0	1	2	3	4	5	

33. In your county, regarding the sanctioning and supervision of delinquent youths, how similar or different are your views to each of the following groups? (Circle one number for each, where 1 = very different and 5 = very similar)

	No Opinion	Very Different				Very Similar
			←-----→			
a. Judges	0	1	2	3	4	5
b. Police	0	1	2	3	4	5
c. The state agency administrators	0	1	2	3	4	5
d. Mental health professionals	0	1	2	3	4	5

e. Probation officers	0	1	2	3	4	5
f. Defense attorneys	0	1	2	3	4	5
g. Prosecutors	0	1	2	3	4	5
h. Social workers	0	1	2	3	4	5
i. Community residents	0	1	2	3	4	5
j. Private program providers	0	1	2	3	4	5
k. Medical professionals	0	1	2	3	4	5
l. Youth advocacy organizations	0	1	2	3	4	5
m. Teachers and education officials	0	1	2	3	4	5

34. In your jurisdiction, how would you characterize your **overall working relationship** with each of the following? (Circle one number for each where; 1 = very unproductive and 5= very productive)

	No Opini on	Very Unpr oduct ive		Very Produ ctive		
			←————→			
a. Judges	0	1	2	3	4	5
b. Police	0	1	2	3	4	5
c. The state agency administrators	0	1	2	3	4	5
d. Mental health professionals	0	1	2	3	4	5
e. Probation officers	0	1	2	3	4	5
f. Defense attorneys	0	1	2	3	4	5
g. Prosecutors	0	1	2	3	4	5
h. Private program providers	0	1	2	3	4	5
i. Social workers	0	1	2	3	4	5
j. Youth advocacy organizations	0	1	2	3	4	5
k. Medical professionals	0	1	2	3	4	5
l. Community residents	0	1	2	3	4	5
m. Teachers and education officials	0	1	2	3	4	5

Section 8: Respondent's Background Information

35. What is your age as of your last birthday? _____ Years

36. What is your gender? ___ Male ⁽¹⁾ ___ Female ⁽²⁾

37. Please describe your ethnic/racial background: _____

38. What is your marital status? (*Check one*) ___Single⁽¹⁾ ___Married⁽²⁾ ___Divorced⁽³⁾
___Widow⁽⁴⁾

39. How many children, if any, do you currently have in the following age groups?
Please check here if you have no children _____

Under 6 _____ 6-10 _____ 11-15 _____ 16-20 _____ 21 and over _____

40. What is your formal job title? _____

41. How long have you:

	Months	Years
a. been a referee?	_____	_____
b. been a judge?	_____	_____
c. heard juvenile cases?	_____	_____

42. Prior to or in addition to your duties as a judge or referee, have you (*please specify "Yes" or "No"*)

a. worked as a prosecutor?	Yes _____	No _____
b. worked as a public defender?	Yes _____	No _____
c. worked in a private law practice?	Yes _____	No _____
d. worked in adult corrections?	Yes _____	No _____
e. worked in a social service agency?	Yes _____	No _____
f. participated in other professional or voluntary activities involving child caring, development or youth services?	Yes _____	No _____

43. In approximately what percentage of your judicial work do you handle juvenile cases? _____ %

44. If less than full-time is devoted to juvenile matters, what are your other duties? (*Select all that apply*):

Domestic Relations

Adult Criminal or Civil Cases

Other (*specify*) _____

45. In terms of your job satisfaction, if it were completely up to you, how long would you like to continue

serving as a judge or referee in juvenile/family court? (*Check one*)

I would like to continue for the duration of my career. ⁽¹⁾

I would like to continue for many more years. ⁽²⁾

I would like to continue for one or two more years. ⁽³⁾

I would like to leave soon. ⁽⁴⁾

46. Have you attended any of the training meetings family or juvenile court judges?

Yes ⁽¹⁾ a. If so, approximately how many? _____

b. Were they useful to you? Yes ⁽¹⁾ No ⁽²⁾

No ⁽²⁾ (If not, please go to question # 47 below)

47. Which organization(s) provided the training you participated in (*Please check all that apply*)?

Supreme Court Administrators office

Institute for Continuing Legal Education

Bar Association

National Council of Juvenile & Family Court Judges

Other (*Please specify*) _____

That concludes our survey. In the remaining space and elsewhere on this document you are welcome to write any comments you have about specific questions in this questionnaire, potential uses for the information obtained, and any additional issues you feel may be beneficial to this research.

Thank you very much for your participation.

University of Michigan
Institute for Social Research
Ann Arbor, Michigan

PROSECUTOR SURVEY

This research is supported by a grant from The National Institute of Justice (98-JB-VX-0112) to study juvenile court and corrections decision making in four states.

Section 1: General Views on Juvenile Justice

1. Here are some general statements about juvenile justice and the types of state and community intervention which juvenile delinquency might require. Realizing that each case is unique, please indicate how much you generally agree or disagree with each? (Circle one number for each on a scale of 1 to 5, where 1 = Strongly Disagree, 3 = Neither Agree nor Disagree, and 5 = Strongly Agree)

	Strongly Disag				Strongly Agree
	1	2	3	4	5
a. Sympathetic understanding is the key to helping delinquents	1	2	3	4	5
b. There are not enough beds in secure institutions for all the youths that should be placed there	1	2	3	4	5
c. Delinquents do <u>not</u> need to be punished in order to be rehabilitated	1	2	3	4	5
d. Many delinquents currently placed in secure institutions could be adequately handled in less restrictive programs	1	2	3	4	5
e. The police do not enforce juvenile laws strictly enough	1	2	3	4	5
f. My county needs more community-based, non-secure residential programs for delinquents	1	2	3	4	5
g. Juvenile probation enforces supervision requirements strictly enough	1	2	3	4	5
h. Delinquent minority youth often require more restraint and control now than they have in the past	1	2	3	4	5
i. The due process rights of juveniles are insufficiently protected	1	2	3	4	5
j. Delinquent girls require more restraint now than they have in	1	2	3	4	5
k. If the evidence does not establish the offense charged beyond a reasonable doubt, the case should be dismissed, regardless of the child's apparent need	1	2	3	4	5
l. "Structured decision making" (i.e. risk/needs assessment) is an effective way to make placement	1	2	3	4	5
m. Placing a youth in detention is a good way to demonstrate that the court means business	1	2	3	4	5
n. Termination of a case with a warning is the best disposition for minor offenses	1	2	3	4	5
o. The overrepresentation of minority youth in secure placement is a serious problem facing juvenile justice decision makers...	1	2	3	4	5
p. Prosecutors currently possess too much discretion in juvenile justice administration	1	2	3	4	5

4. What additional programs or services for delinquents would you like to see in your county?

Section 2: Disposition Objectives

5. Overall, how important **should** each of the following objectives be in dispositional decision making in juvenile justice? (*Circle one number for each item where; 1 = Not at all Important and 5 = Extremely Important*)

	<i>Not at all Impor tant</i>				<i>Extre mely Impor tant</i>
		←	→		
a. Deterring the offender	1	2	3	4	5
b. Treating the offender	1	2	3	4	5
c. Punishing the offender	1	2	3	4	5
d. Repaying the victim or community	1	2	3	4	5
e. Equitable handling of offenders	1	2	3	4	5
f. Improving juveniles' competence (i.e. education, etc.)	1	2	3	4	5
g. Ensuring the involvement of victims	1	2	3	4	5
h. Improving a juveniles pro-social attitudes	1	2	3	4	5
i. Protecting society	1	2	3	4	5

6. Referring to the list of factors provided above in question #5, please identify the *letters* (i.e. a, b, c,) corresponding to the first and second **most important** and the one **least important** objective in dispositional decision making.

Most Important Objective: _____ Second Most Important: _____ Least Important Factor: _____

7. Considering the **current state** dispositional decision making in your jurisdiction's juvenile justice system, please indicate the extent to which you agree or disagree with the following statements. (Circle one number for each where; 1 = Strongly Disagree and 5 = Strongly Agree)

	<i>Strongly Disagree</i>				<i>Strongly Agree</i>
	←	—————→			
In dispositions					
a. More emphasis should be placed on the extent of harm or loss to victims	1	2	3	4	5
b. Too much emphasis is given to trying to ensure that the punishment fits the crime	1	2	3	4	5
c. More emphasis should be placed on upholding due process	1	2	3	4	5
d. Too much emphasis is placed on "least restrictive" and de-institutionalized approaches to disposition	1	2	3	4	5
e. Too much emphasis is given to "the best interest" of the juvenile	1	2	3	4	5
f. More emphasis should be placed on the juvenile's need for treatment and social services	1	2	3	4	5
g. The youth's family situation receives too much emphasis	1	2	3	4	5
h. An adversarial defense generally serves the best interests of the child in juvenile court	1	2	3	4	5
i. More emphasis should be placed on punishment	1	2	3	4	5
j. More emphasis should be placed on the dangers to the health and safety of youth in disadvantaged	1	2	3	4	5
k. Too much emphasis is given to cost effectiveness in sanctioning	1	2	3	4	5
l. Less emphasis should be placed on "risk" or threat to the community	1	2	3	4	5
m. More delinquent youth should transferred to the adult system	1	2	3	4	5

8. Realizing that each juvenile case is different, how important **to you** is each of the following factors in making a disposition for an adjudicated delinquent in most cases? (*Circle one number for each item where; 1 = Not at all Important and 5 = Very Important*)

	<i>Not at all Impo rtant</i>				<i>Very Impor tant</i>
	←—————→				
a. The youth's present offense	1	2	3	4	5
b. The youth's prior offense record	1	2	3	4	5
c. The youth's attitude and demeanor	1	2	3	4	5
d. The youth's age	1	2	3	4	5
e. The youth's emotional stability	1	2	3	4	5
f. The stability of the youth's family	1	2	3	4	5
g. The parent's presence in court	1	2	3	4	5
h. The degree of parental cooperation	1	2	3	4	5
j. The sex of the juvenile	1	2	3	4	5
k. The youth's drug involvement	1	2	3	4	5
l. The youth's treatment needs	1	2	3	4	5
m. The youth's placement history	1	2	3	4	5
n. The availability of community based services	1	2	3	4	5
o. The quality of community based treatment programs	1	2	3	4	5
p. Loss or harm to the victim	1	2	3	4	5
q. The youth's attendance and/or behavior in school	1	2	3	4	5
r. The youth's gang association	1	2	3	4	5

Section 3: What Works in Juvenile Justice?

9. How important are the following factors in helping juveniles turn away from further involvement in delinquency and crime. (Circle one number for each item, where; 1 = Not at all Important and 5 = Very Important)

	Not at all Impor tant				Very Impo rtant
	←————→				
a. Fearing more severe punishment	1	2	3	4	5
b. Understanding that offenses harm other people	1	2	3	4	5
c. Being removed from their neighborhood environment	1	2	3	4	5
d. Receiving counseling, therapy, or mental health services	1	2	3	4	5
e. Improving school performance	1	2	3	4	5
f. Having positive work or employment experiences	1	2	3	4	5
g. Losing freedom through restrictive supervision	1	2	3	4	5
h. Increasing community service and involvement	1	2	3	4	5
i. Being required to pay back their victims	1	2	3	4	5
j. Improving the family environment	1	2	3	4	5

10. Referring to the list of factors provided above in question #9, please identify the *letters* (i.e. a, b, c,) corresponding to the first and second **most important** factors and the one **least important** factor in helping juveniles turn away from further involvement in delinquency and crime.

Most Important factor: _____ Second Most Important: _____ Least Important factor: _____

11. The following statements address the **effectiveness of existing resources** in your jurisdiction's juvenile justice system. How much do you agree or disagree with each statement? (Circle one number for each item where 1 = Strongly Disagree, and 5 = Strongly Agree)

	Stron gly Disag ree				Stron gly Agree
	←————→				
a. Secure institutions effectively punish delinquents	1	2	3	4	5
b. Secure institutions effectively rehabilitate delinquents	1	2	3	4	5
c. Secure institutions effectively deter delinquent behavior	1	2	3	4	5

d. Community-based programs effectively punish delinquents	1	2	3	4	5
e. Community-based programs effectively rehabilitate delinquents	1	2	3	4	5
f. Community-based programs effectively deter delinquent behavior	1	2	3	4	5

Section 4: Structured Decision Making in Juvenile Justice

In the following series of questions we ask about the use of Structured Decision Making (SDM) procedures. For the purposes of this survey, Structured Decision Making refers to any procedures intended to guide decision-makers or “standardize” decisions according to predetermined criteria. Please answer these questions according to **your use** of the SDM procedures utilized in your court.

12. Are you **familiar** with the Structured Decision Making model used in your county?

Yes _____ (1)
 No _____ (2) (Skip to Section 6)

13. Have you been **formally trained** in the use of structured decision making? _____ Yes (1) _____ No (2)

If so, how satisfied are you with the training you have received to date on the SDM system? (*Check one*)

Very Satisfied _____
 Satisfied _____
 Neither satisfied nor dissatisfied _____
 Dissatisfied _____
 Very Dissatisfied _____

14. Have you ever **used** the Structured Decision Making procedure?

_____ Yes (1) If so, please indicate the **year** when you first used SDM: 19____
 _____ No (2)

15. Below are some possible reasons why structured decision making procedures were introduced in juvenile justice. For each, first indicate *whether or not you think it was a reason* the structured decision making system was introduced in your court. Next, please indicate whether or not you think it was a *good reason*. Finally, please indicate whether you think any of these potential *goals have been met* by implementing SDM.

	a) Was this a reason?		b) Was this a <u>good</u> reason?		c) Has SDM helped to meet this goal?		
	Yes	No	Yes	No	Yes	No	Don't Know
<i>Possible Reasons</i>							
a. To place fewer youths in secure placements	1	2	1	2	1	2	8
b. To make placement decisions more consistent across the state	1	2	1	2	1	2	8
c. To ensure that youth receive the most appropriate placement	1	2	1	2	1	2	8
d. To hold juvenile justice decision makers more accountable for their use of discretion	1	2	1	2	1	2	8
e. To prevent the overrepresentation of certain groups in secure placement	1	2	1	2	1	2	8
f. To create more paperwork for us	1	2	1	2	1	2	8

g. To reserve commitment to secure placements for only the most serious and chronic delinquent

h. Other (specify) _____

1	2	1	2	1	2	8
1	2	1	2	1	2	8

16. In approximately what percentage of your cases have you used each of the following Structured Decision Making components to reach a dispositional recommendation? (Select a separate answer for each)

<u>Component</u>	Never	1-10%	11-25%	26-50%	51-75%	76%+
a. Risk Assessment	0	1	2	3	4	5
b. Needs Assessment	0	1	2	3	4	5
c. Security Level Classification	0	1	2	3	4	5

17. In approximately what percentage of your cases have you:

	Never	1-10%	11-25%	26-50%	51-75%	76%+
a. completed a predisposition report <u>prior</u> to making your dispositional recommendation?	0	1	2	3	4	5
b. determined the Structured Decision Making recommendation <u>prior</u> to making your dispositional recommendation?	0	1	2	3	4	5
c. disagreed with Structured Decision Making recommendations in your own placement recommendation?	0	1	2	3	4	5
d. requested an override of the Structured Decision Making placement recommendation?	0	1	2	3	4	5

18. In general, how often would you say that the score on the Structured Decision Making instrument recommends a decision/disposition that is:

	Never	1-10%	11-25%	26-50%	51-75%	76% +
a. Too lenient?	0	1	2	3	4	5
b. About right, neither too lenient nor too restrictive?	0	1	2	3	4	5
c. Too restrictive?	0	1	2	3	4	5

19. Below are some possible reasons for *overriding* the Structured Decision Making instrument. For each, please indicate how often the situation has been related to **your** override recommendations.

Reasons

a. The guidelines recommended community placement but I felt the youth should be placed out of the home.

b. The guidelines recommended community placement and I concurred but there were no suitable community placement alternatives available.

c. The guidelines recommended out of home placement but I didn't feel the youth should be removed from home.

d. The guidelines recommended a community placement and I concurred but my override decision was driven by the parent/legal guardian's request that the child be removed from their home.

e. A mandatory override was required because of the offense for which the juvenile was adjudicated.

f. Other: _____

g. Other _____

<i>Never</i> (0%)	<i>Rarely</i> (1-10%)	<i>Sometim es</i> (11- 25%)	Often (26-50%)	Very often (51-75%)	Almost always (76% +)
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5
0	1	2	3	4	5

20. Which *case specific factors*, if any, typically guide your recommendation to override structured decision making recommendations for community placement, in favor of **out of home** placement?
(Please List)

21. Which *case specific factors*, if any, typically guide your recommendation to override structured decision making recommendations for out of home placement, in favor of **community-based** placement?

22. In your opinion, how **valuable** to case processing are each of the following components of the Structured Decision Making model? (Select an answer for each component)

<u>Component</u>	<i>Not Valuable</i>	<i>Somewhat Valuable</i>	<i>Valuable</i>	<i>Very Valuable</i>
a. Risk Assessment	0	1	2	3
b. Needs Assessment	0	1	2	3
c. Security Level Classification	0	1	2	3

23. At what point(s) in the decision making process is Structured Decision Making a more and less useful resource? For each decision point listed below, please indicate the level of usefulness.

(Circle one number for each item where; 1 = Not Useful and 5 =Extremely Useful)

	<i>Not Useful</i>	<i>Only Slightly Useful</i>	<i>Somewh at Useful</i>	<i>Very Useful</i>	<i>Extremely Useful</i>
	←—————→				
a. Pretrial Detention	1	2	3	4	5
b. Post Adjudication Placement	1	2	3	4	5
c. Post Commitment Placement	1	2	3	4	5
d. Release Decisions	1	2	3	4	5

24. In your opinion, what are the **best** things about the Structured Decision Making system?

25. In your opinion, what are the **worst** things about the Structured Decision Making system?

26. What **changes**, if any, would you like to see in the Structured Decision Making system?

Section 5: Accountability in Juvenile Justice

27. The principle of “accountability” is often used to describe goals and standards of the justice system. This concept, however, may have several meanings. Below we propose several potential definitions. How similar is each definition of “accountability” to **your own beliefs** about how the juvenile justice system **should** work?

Question: How similar is each definition to your own beliefs about how the juvenile justice system should work? (<i>Please indicate similarity on a scale of 1 to 5, where 1 = Not very similar, 3 = Somewhat similar, and 5 = Very similar</i>).	Not Very Similar		Somewhat Similar		Very Similar
a. Accountability should be to the community and especially victims, emphasizing ideals of material and emotional restitution, community restoration, and civic or civil society.	1	2	3	4	5
b. Accountability should be to the community and especially the law abiding public, emphasizing ideals of safety and punishments that are “just deserts” for individuals who commit crimes.	1	2	3	4	5
c. Accountability should be to the community and especially the youthful offender, emphasizing ideals of prevention and rehabilitation.	1	2	3	4	5
d. Accountability should be to the general community, emphasizing ideals of equal justice and basic fairness within the justice system.	1	2	3	4	5

28. If the juvenile justice system could only apply one of the definitions of “accountability” provided above, which would you identify as **most important**? (*Please specify using the letter a, b, c, or d*)

29. If your personal beliefs about accountability in the context of juvenile justice are not captured adequately by the definitions above, please use the space below to share your views on the concept.

Section 6: Inter-Organizational and Community Relations

30. The juvenile court is integrally related to its community, and organizations or stakeholders in the community often affect what happens in the court. Below is a list of organizations and groups whose activities may directly or indirectly influence the operations of your court. How much direct or indirect **influence** do you feel each of the following groups has on juvenile case processing in your court? (*Circle one number for each, where 1 = no influence and 5 = very much influence*)

	<i>No Opini on</i>	<i>No Influe nce</i>				<i>Very Much Influe nce</i>
	0	1	2	3	4	5
a. Judges	0	1	2	3	4	5
b. Police	0	1	2	3	4	5
c. The state agency administrators	0	1	2	3	4	5
d. Mental health professionals	0	1	2	3	4	5
e. Probation officers	0	1	2	3	4	5
f. Defense attorneys	0	1	2	3	4	5
g. Prosecutors	0	1	2	3	4	5
h. Private program providers	0	1	2	3	4	5
i. Social workers	0	1	2	3	4	5
j. Youth advocacy organizations	0	1	2	3	4	5
k. Medical professionals	0	1	2	3	4	5
l. Community residents	0	1	2	3	4	5
m. Teachers and education officials	0	1	2	3	4	5

31. In your county, regarding the sanctioning and supervision of delinquent youths, how similar or different are your **views** to each of the following groups? (*Circle one number for each, where 1 = very different and 5 = very similar*)

	<i>No Opinion</i>	<i>Very Different</i>				<i>Very Similar</i>
	0	1	2	3	4	5
a. Judges	0	1	2	3	4	5
b. Police	0	1	2	3	4	5
c. The state agency administrators	0	1	2	3	4	5
d. Mental health professionals	0	1	2	3	4	5

e. Probation officers	0	1	2	3	4	5
f. Defense attorneys	0	1	2	3	4	5
g. Prosecutors	0	1	2	3	4	5
h. Social workers	0	1	2	3	4	5
i. Community residents	0	1	2	3	4	5
j. Private program providers	0	1	2	3	4	5
k. Medical professionals	0	1	2	3	4	5
l. Youth advocacy organizations	0	1	2	3	4	5
m. Teachers and education officials	0	1	2	3	4	5

32. In your jurisdiction, how would you characterize your **overall working relationship** with each of the following? (*Circle one number for each where; 1 = very unproductive and 5= very productive*)

	<i>No Opinion</i>	<i>Very Unproductive</i>				<i>Very Productive</i>
		←————→				
a. Judges	0	1	2	3	4	5
b. Police	0	1	2	3	4	5
c. The state agency administrators	0	1	2	3	4	5
d. Mental health professionals	0	1	2	3	4	5
e. Probation officers	0	1	2	3	4	5
f. Defense attorneys	0	1	2	3	4	5
g. Prosecutors	0	1	2	3	4	5
h. Private program providers	0	1	2	3	4	5
i. Social workers	0	1	2	3	4	5
j. Youth advocacy organizations	0	1	2	3	4	5
k. Medical professionals	0	1	2	3	4	5
l. Community residents	0	1	2	3	4	5
m. Teachers and education officials	0	1	2	3	4	5

Section 7: Respondent's Background Information

33. What is your age as of your last birthday? _____ Years

34. What is your gender? ___ Male ⁽¹⁾ ___ Female ⁽²⁾

35. Please describe your ethnic/racial background: _____

36. What is your marital status? (*Check one*) ___ Single⁽¹⁾ ___ Married⁽²⁾ ___ Divorced⁽³⁾ ___ Widow⁽⁴⁾

37. How many children, if any, do you currently have that are in the following age groups?

Please check here if you have no children _____

Under 6 _____ 6-10 _____ 11-15 _____ 16-20 _____ 21 and over _____

38. What is the highest level of education you have attained?

_____ High school graduate or equivalent ⁽¹⁾

_____ some college ⁽²⁾

_____ Associate Degree ⁽³⁾

_____ BA or BS, or another 4 year degree (specify field _____) ⁽⁴⁾

_____ Masters Degree (specify field _____) ⁽⁵⁾

_____ Other (specify _____) ⁽⁶⁾

39. What is your job title? _____

40. How long have you worked:

a. in juvenile justice? _____ mos. _____ years;

b. in juvenile probation? _____ mos. _____ years;

c. in your present position? _____ mos. _____ years.

41. Prior to or in addition to your duties as a juvenile probation officer, have you had any of the following kinds of experiences? (*Please indicate "Yes" or "No" for each*)

a. worked in education? ___ Yes ⁽¹⁾ ___ No ⁽²⁾

b. worked in policing? ___ Yes ⁽¹⁾ ___ No ⁽²⁾

c. worked in adult corrections? ___ Yes ⁽¹⁾ ___ No ⁽²⁾

d. worked in a social service agency? ___ Yes ⁽¹⁾ ___ No ⁽²⁾

e. participated in other professional or voluntary activities involving child caring,
development

or youth services? ___ Yes ⁽¹⁾ ___ No ⁽²⁾

(specify): _____

42. In what percentage of your probation work do you handle juvenile cases? _____ %

43. If less than full-time is devoted to juvenile matters, what are your other duties? (*Select all that apply*):

___ Domestic Relations

___ Adult Probation or Parole

___ Other (*specify*) _____

44. In terms of your job satisfaction, if it were completely up to you, how long would you like to continue serving as a juvenile probation officer? (*Check one*)

___ I would like to continue for the duration of my career. (1)

___ I would like to continue for many more years. (2)

___ I would like to continue for one or two more years. (3)

___ I would like to leave soon. (4)

45. Have you attended any of the training meetings for probation officers?

___ Yes (1) a. If so, approximately how many? _____

b. Were they useful to you? ___ Yes (1) ___ No (2)

___ No (2) (If not, please go to question # 47 below)

46. Which organization(s) provided the training you participated in (*Please check all that apply*)?

___ Supreme Court Administrators office

___ Department of Community Justice

___ State Office of Delinquency Services

___ Other (*Please specify*) _____

47. Are you a member of any technical or professional organizations? ___ Yes (1) ___ No (2)

If Yes, please list: _____

Have you attended any meetings of these organizations in the last 12 months?

___ Yes (1)

___ No (2)

That concludes our survey. In the remaining space and elsewhere on this document you are welcome to write any comments you have about specific questions in this questionnaire, potential uses for the information obtained, and any additional issues you feel may be beneficial to this research.

Thank you very much for your participation.